

MAINE STATE LEGISLATURE

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REPORT
OF
THE COMMISSIONER
ON THE
REVISION AND CONSOLIDATION
OF THE
PUBLIC LAWS
OF THE
STATE OF MAINE
UNDER
RESOLVE OF APRIL 15, 1927

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TITLE FOUR.

Corporations of Various Kinds.

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CHAPTER 55.

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Organization of Corporations Under Special Act or for Special Purposes.

Sec. 1. Application of chapter. R. S. c. 51, § 1. This chapter applies to all

corporations organized by special acts of the legislature or under the general laws of the state, except so far as it is inconsistent with such special acts or with public statutes, concerning particular classes of corporations.

See c. 56, § 13, c. 59, § 1, c. 67, § 3; 39 Me. 37; 58 Me. 20; *113 Me. 536.

Sec. 2. Acts of incorporation may be altered or repealed. R. S. c. 51, § 2. Acts of incorporation, passed since March seventeen, eighteen hundred and thirty-one, may be amended, altered, or repealed by the legislature, as if express provision therefor were made in them, unless they contain an express limitation; but this section shall not deprive the courts of any power which they have at common law over a corporation or its officers.

See c. 1, § 6, ¶ xxviii; 16 Me. 231; 23 Me. 319; 60 Me. 174; 63 Me. 274; 66 Me. 504, 508; *69 Me. 49; 96 Me. 258; 97 Me. 207, *592; 109 Me. 432; 124 Me. *64.

Sec. 3. Officers of corporations chartered by special statute to prepare a certificate for record. R. S. c. 51, § 3. Before commencing business, the president, treasurer, and a majority of the directors of any corporation chartered by special act of the legislature, shall prepare a certificate setting forth the date of approval of its charter, 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, the number and names of the directors, and the name and residence of the clerk, and shall sign and make oath to it. Such certificate shall be recorded in the registry of deeds in the county where its principal office is to be located, in a book kept for that purpose, and a copy thereof, certified by such register, shall be filed in the office of the secretary of state, who shall enter the date of filing thereon and on the original certificate to be kept by the corporation, and shall record said copy in a book kept for that purpose. From the time of filing such certificate in the secretary of state's office, the stockholders of said corporation, their successors and assigns, shall be a corporation.

Sec. 4. Duties to be paid by corporations chartered by special statute. R. S. c. 51, § 4. The certificate mentioned in the preceding section shall not be received and filed by the secretary of state except upon the payment to him of the sum of fifteen dollars, if the capital stock does not exceed five thousand dollars; twenty-five dollars if the capital stock exceeds five thousand dollars and does not exceed ten thousand dollars; seventy-five dollars if the capital stock exceeds ten thousand dollars and does not exceed fifty thousand dollars; one hundred and twenty-five dollars if the capital stock exceeds fifty thousand dollars and does not exceed one hundred thousand dollars; sixty dollars upon every one hundred thousand dollars or fraction thereof in excess of one hundred thousand dollars, if the capital stock exceeds one hundred thousand dollars, which sum is to be paid by the secretary of state to the treasurer of state for the use of the state, provided, that the provisions of this section shall not apply to corporations chartered for charitable and benevolent purposes.

Sec. 5. Corporations chartered by special act forbidden to carry on business until certificate is filed. R. S. c. 51, § 5. No corporation created by special act of the legislature, municipal corporations excepted, shall carry on any business whatsoever, before filing in the office of the secretary of state the certificate of organization provided by section three of this chapter. Whoever, whether named in the act of the legislature or not, conducts and carries on any business whatsoever in the name of such corporation before said certificate is filed shall be personally and individually liable for all contracts and debts of said corporation contracted prior to the filing of said certificate. The provisions of this section shall apply to all individuals granted special rights and privileges by act of the legislature.

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Sec. 6. Duties upon filing certificates for banking, insurance, railroads, savings banks, trust, safe deposit, telegraph, telephone, electric or gas light, street railroad, and water companies. R. S. c. 51, § 6. No certificate of organization of any corporation for banking, insurance, construction and operation of railroads, or aiding in the construction thereof, the business of trust companies, or corporations intended to derive a profit from the loan or use of money, safe deposit companies, renting of safes and burglar and fire-proof vaults, telegraph and telephone companies, electric or gas light companies, street railroad companies, water companies, or any corporation authorized to exercise the right of eminent domain, shall be received and filed by the secretary of state except upon payment to him of twenty-five dollars, if the capital stock does not exceed five thousand dollars; fifty dollars if the capital stock exceeds five thousand dollars and does not exceed ten thousand dollars; one hundred dollars if the capital stock exceeds ten thousand dollars and does not exceed fifty thousand dollars; two hundred dollars if the capital stock exceeds fifty thousand dollars, and does not exceed one hundred thousand dollars; seventy-five dollars upon every one hundred thousand dollars or fraction thereof in excess of one hundred thousand dollars, if the capital stock exceeds one hundred thousand dollars, which sum is to be paid by the secretary of state to the treasurer of state for the use of the state.

Organization of Corporations under General Law.

Sec. 7. Purposes for which corporations may be organized; exceptions; agricultural credit corporations under Federal Farm Loan Act. R. S. c. 51, § 7. 1925, cc. 172, 204. 1927, c. 62. Three or more persons may associate themselves together by written articles of agreement, for the purpose of forming a corporation to carry on any lawful business anywhere, including corporations for manufacturing, mechanical, mining, or quarrying business; and also corporations whose purpose is the carriage of passengers or freight, or both, upon the high seas, or from port or ports in this state to a foreign port or ports, or to a port or ports in other states, or the carriage of freight or passengers, or both, upon any waters where such corporations may navigate; and excepting corporations for banking, insurance, the constructions and operation of railroads or aiding the constructions thereof, and the business of savings banks, trust companies, loan and building associations, or corporations intended to derive profit from the loan of money except as a reasonable incident to the transaction of other corporate business or where necessary to prevent corporate funds from being unproductive, and safe deposit companies, including the renting of safes in burglar-proof and fire-proof vaults; but corporations may also be formed hereunder to exercise the following corporate purposes in other states and jurisdictions, namely: the construction and operation of railroads or aiding in the construction thereof, telegraph or telephone companies, and gas or electrical companies, and in all such cases, the articles of agreement and certificate of organization shall state that such business is to be carried on only in states and jurisdictions when and where permissible under the laws thereof, and such corporations heretofore organized for the transaction of such business in other states or jurisdictions, if otherwise legally organized and now existing, are hereby declared to be corporations under the laws of this state.

Nothing herein shall be construed to prevent the organization of agricultural credit corporations organized to carry out the provisions of the federal farm loan act, enacted by the sixty-seventh congress of the United States, chapter two hundred and fifty-two, and acts amendatory thereof and additional thereto

and which become such corporations under the provisions of said federal farm loan act. Such agricultural credit corporations shall not be deemed banking corporations or institutions.

86 Me. 316.

Sec. 8. First meeting; notice or waiver thereof; proceedings. R. S. c. 51, § 8. 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. If all of the signers of said articles shall in writing waive notice and fix a time and place of such meeting, no notice or publication shall be necessary. 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, divide it into shares, and elect not less than three directors, a president, a clerk, treasurer, and any other necessary officers, and may adopt a code of by-laws.

61 Me. 356; 64 Me. 381; 70 Me. 146.

Sec. 9. Certificates of organization; duties to be paid to the state. R. S. c. 51, § 9. 1925, c. 196, § 1. Before commencing business the president, treasurer, and 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 the name and residence of the clerk 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 said corporation is located, in a book kept for that purpose, and within sixty days after the day of the meeting at which such corporation is organized, a copy thereof certified by such register shall be filed in the secretary of state's office, who shall enter the date of filing thereon, and on the original certificate to be kept by the corporation, and shall record said copy in a book kept for that purpose. The oath to said certificate may be made outside the state before a notary public, or a commissioner appointed by the governor to take acknowledgments of deeds in other states, by any subscriber to said certificate who was actually present in the state at the meeting for the organization of the corporation. All certificates verified prior to the fourth day of July, nineteen hundred and fifteen, outside the state before a notary public or such commissioner shall be deemed to comply with this section. Before said certificate is filed in the office of the secretary of state, when the amount of capital stock does not exceed ten thousand dollars, such corporation shall pay to the secretary of state for the use of the state the sum of ten dollars; when the amount of the capital stock exceeds ten thousand dollars and does not exceed five hundred thousand dollars, it shall pay to the secretary of state for the use of the state, the sum of fifty dollars; when the amount of the capital stock exceeds five hundred thousand dollars, it shall pay to the secretary of state for the use of the state ten dollars for each one hundred thousand dollars of the capital stock.

See c. 67, § 3; c. 126, §§ 13, 14, 15; 61 Me. 356; 64 Me. 381; 70 Me. 146.

Note. Mr. McLean suggests that it is unnecessary to set out the classes into which non par stock is divided as specified in § 114 of this chapter, and suggests that § 9 be amended by adding after the words "the amount already paid in, the par value of the shares," the words "having par value, and the number of shares without par or face value." In this case § 114 should be amended by striking out all of said § 114 beginning with the words "in lieu of the statements now required by law" and inserting in place thereof the words "the number of such shares."

Sec. 10. Certificate filed where corporation is located deemed compliance. R. S. c. 51, § 10. Any corporation organized hereunder before the fifteenth day of March, eighteen hundred and ninety-three, which caused the certificate to be recorded in the registry of deeds of the county in which such corporation is described in said certificate to be located, shall be deemed to have complied with the requirements of the preceding section.

Sec. 11. Upon filing certificate organization complete. R. S. c. 51, § 11. From the time of filing the copy of such certificate in the secretary of state's office, the signer 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.

See c. 1, § 6, ¶ xxix; c. 67, § 3; 61 Me. 356; 64 Me. 381; 70 Me. 146.

Meetings.

Sec. 12. First meeting, how called; organization valid, if made under any provision of this chapter. R. S. c. 51, § 12. The first meeting of any corporation chartered by special act of the legislature unless otherwise provided, shall be called by a notice signed by some person named in the act of incorporation, setting forth the time, place, and purpose of the meeting, a copy of which shall 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 any existing corporation made in accordance with any provision of this chapter is valid.

^{27 Me. 519; 38 Me. 345; 72 Me. 296.}

Sec. 13. Any meeting may be called by a justice, if no other legal mode. R. S. c. 51, § 13. When a meeting of any corporation cannot be otherwise called, three members of the corporation may make written application to a justice of the peace where it is established, if local, or if not, where it is desired 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 notice to be published in some newspaper, or posted in some public place, the justice shall designate in his warrant the newspaper or place.

^{12 Me. 400.}

Sec. 14. Presiding officer at such meeting; person presiding not responsible for error. R. S. c. 51, § 14. 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.

Sec. 15. Officers holding over; acts of officers elected on another day legal. R. S. c. 51, § 15. When a corporation fails to hold its annual meeting on the day appointed, or fails to elect officers at such meeting, the officers of the preceding year continue in the exercise of their duties, and their acts are legal, until other officers are 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 shall 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 shall be considered legal until others are chosen and qualified in their stead.

^{30 Me. 550; 56 Me. 323.}

Sec. 16. Objections to election on another day. R. S. c. 51, § 16. When such a notice is filed, the clerk shall 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 elected at such meeting shall hold their offices, and their acts shall be considered legal, until other officers are chosen and qualified in their stead.

Sec. 17. Meeting, when legal by consent. R. S. c. 51, § 17. When all the members of a corporation are present in person or by proxy at a meeting and sign a written consent on the record thereof, such meeting is legal.

Sec. 18. Proxies may be granted six months prior to meeting. R. S. c. 51, § 18. 1919, c. 23. 1925, c. 104. Shareholders may be represented by proxies granted not more than six months before the meeting which shall be named therein; they are not valid after a final adjournment thereof. They may be represented by a general power of attorney, produced at the meeting, until it is revoked. Shares hypothecated to the corporation shall not 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.

Sec. 19. Representation of pledged stock. R. S. c. 51, § 19. After 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 continues to have the right to vote upon such stock at all meetings of the stockholders until his right of redemption ceases.

Officers and Their Duties.

Sec. 20. Officers of corporation; qualifications of directors; treasurer to give bond; clerk to be sworn; directors may be divided into classes; may hold meetings without this state. R. S. c. 51, § 20. Corporations shall have a president, directors, clerk, treasurer, and any other desirable officers. Such officers shall be chosen annually, and shall continue in office until others are chosen and qualified in their stead. There shall not be less than three directors, one of whom shall be by them elected president. Directors must be and remain stockholders, except that a member of another corporation, which owns stock and has a right to vote thereon, may be a director. The treasurer shall give bond for the faithful discharge of his duties, in such sum, and with such sureties, as are required. The clerk shall be sworn, and shall record all votes of the corporation in a book kept for that purpose; nothing herein shall prohibit corporations from providing by their by-laws for the division of their directors into classes and their election for a longer term than one year. After the certificate of organization required by law is filed in the office of the secretary of state, directors of all corporations not charged with the performance of any public duty within the state may hold meetings without the state and there transact business and perform all corporate acts not expressly required by statute to be performed within the state. Directors of such corporations may act through committees whose powers shall be defined in the by-laws.

See c. 5, § 29; 30 Me. 550; 41 Me. 87.

Sec. 21. Appointment of directors by supreme judicial court; proceedings; rights, powers, and duties of appointees. R. S. c. 51, § 21. If any corporation organized under the general laws of the state shall fail to elect directors within six months after the time provided in its by-laws for the annual meeting, the supreme judicial court shall have jurisdiction in equity, upon application by

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any one or more of its stockholders holding at least fifty per cent of the capital stock issued, to appoint a board of directors for such corporation not exceeding in membership the number authorized by the by-laws. Such appointments may be made from among the stockholders or otherwise as the court may see fit. The application shall be made by petition filed in the county where such corporation is located and shall be brought in behalf of all stockholders desiring to be joined therein; such notice shall be given to the corporation and its stockholders as the court may direct. Such appointees of the court shall have the same rights, powers, and duties and the same tenure of office as directors duly elected by the stockholders at the annual meeting held at the time prescribed therefor in the by-laws, next prior to the date of the court's appointment, would have had.

Sec. 22. Clerk's office, books, etc., where kept; records and stock-book open to inspection and to be produced in court. R. S. c. 51, § 22. All corporations, existing by virtue of the laws of this state, shall have a clerk who is a resident of this state, and shall keep, at some fixed place within the state, a clerk's office where shall be kept their records and a book showing a true and complete list of all stockholders, their residences, and the amount of stock held by each; and such book, or a duly proved copy thereof, shall be competent evidence in any court of this state to prove who are stockholders in such corporation and the amount of stock held by each stockholder. Such records and stock-book shall be open at all reasonable hours 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. The above provisions as to list of stockholders shall not apply to any corporation doing business in this state and having a treasurer's office at some fixed place in the state where a stock-book is kept giving the names, residences, and amount of stock of each stockholder.

*109 Me. 409; *111 Me. 386; 114 Me. 259; *117 Me. 409; *118 Me. 378; 119 Me. 402; 122 Me. 91; 123 Me. 443.

Sec. 23. Preventing use of records and books, punished. R. S. c. 51, § 23. Any officer or member of a corporation, who prevents access to and use of the records and books as provided in the preceding section, is liable for all damages occasioned thereby, in an action on the case.

Sec. 24. Certificate of election of clerk; an attested copy evidence. R. S. c. 51, § 24. Whenever there is a change in the office of clerk of a corporation, the clerk shall, within twenty days after the acceptance of the office file a certificate of his election in the registry of deeds in the county or district where the corporation is located, or where it has a place of business or a general agent; and an attested copy of such certificate shall be sufficient evidence that he is clerk, for service of process upon the corporation, until another certificate has been filed.

Sec. 25. Resignation of clerk. R. S. c. 51, § 25. The clerk of any corporation may resign his office as clerk by filing his resignation with the register of deeds in the county where the certificate of his election was filed; if no such certificate of election was filed, then his resignation may be filed with the register of deeds in the county where such certificate of election, ought according to law to have been filed; said resignation shall take effect from and after the time of the receipt of the same by such register of deeds.

Sec. 26. Officers to ascertain residences of stockholders; no dividends, unless residence is on books; return of stock to assessors. R. S. c. 51, § 26. Cashiers of banks, treasurers of trust and banking and safe deposit companies, 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, 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, shall, by the eighth day of April annually, return under oath, to the assessors of each 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 such April, and the amount of stock paid into such corporations, and also the value of the real estate, vaults, and safe deposit plant, owned by any bank, or trust and banking or safe deposit company which is taxed as other real estate is taxed in the town in which it is located and the amount for which it is valued by the assessors of such municipality for the year previous, and such return shall contain in the body thereof, or by note annexed thereto, an abstract of section thirty-three of chapter thirteen; and said cashiers of banks, treasurers of trust and banking and safe deposit companies, and clerks or treasurers of such other corporations shall make like returns to the assessors of the town where such bank, company, or other corporation is located or transacts its ordinary business, of all the stock in such bank, company, or other corporation not returned to the assessors of other towns in the state. Such returns shall be the basis of taxation on such property, deducting the assessed value of the real estate, vaults, and safe deposit plant of any bank, trust and banking, or safe deposit company as herein provided.

See c. 12, § 65; c. 13, § 31; 65 Me. 379; 82 Me. 189; 103 Me. 428.

Sec 27. Corporations to annually file returns with secretary of state; contents of returns. R. S. c. 51, § 28. Every corporation incorporated under the laws of this state, excepting religious, charitable, educational, and benevolent corporations, and excepting such corporations as may be organized under the first fourteen sections of chapter seventy, and such corporations as are liable to a franchise tax other than the tax provided for in section eighteen of chapter nine, and such corporations as have been or may hereafter be excused from filing annual returns under the provisions of section thirty-two of this chapter, so long as their franchises remain unused, shall on or before the first day of June, annually, make a return to the secretary of state, signed by its president or treasurer, verified under oath, containing the names of its directors, president, treasurer, and clerk, with the residence of each, the location of its principal office in this state, and the amount of its authorized capital stock; and for this purpose the secretary of state shall furnish blanks in proper form and safely keep in his office all such returns.

108 Me. 275.

Sec. 28. Deposit of return in post-office sufficient; penalty for neglect. R. S. c. 51, § 29. A deposit of the return required in the two preceding sections in a post-office, postage paid, properly directed, is a compliance therewith. 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, to be prosecuted in the name of the state by the attorney-general.

76 Me. 411.

Sec. 29. Notice to attorney-general of neglect of corporations to make returns; prosecutions. R. S. c. 51, § 30. Whenever any corporation or its officers neglect to make to the secretary of state any return required by law, the secretary of state shall forthwith notify the attorney-general, who shall proceed at once, by action of debt in the name of the state, to enforce the penalties therefor, and shall make itemized return thereof in his annual report. The secretary of state, on or before the first day of July, annually, shall furnish the attorney-general with a statement showing which of said corporations, if

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any, have failed to comply with the preceding section, with such other memoranda from his office as will aid the attorney-general in obtaining service upon such delinquent corporation. In addition to said penalties, 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. Such action may be brought in any county.

Sec. 30. Suits may be discontinued. R. S. c. 51, § 31. If within thirty days from the commencement of an action under section twenty-eight such corporation makes to the secretary of state the returns required by law, he shall forthwith notify the attorney-general, who shall discontinue such suit upon payment of the costs already accrued.

Sec. 31. Penalty for neglect to publish statement. R. S. c. 51, § 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, neglects to do so, such officer, in addition to penalties already provided, forfeits five hundred dollars to the prosecutor, to be recovered by action of debt, or action on the case.

See c. 56, §§ 20, 49; c. 69, §§ 37, 117; 77 Me. 493.

Sec. 32. Corporations, when excused from filing returns. R. S. c. 51, § 33. 1923, c. 165. The attorney general, upon application by any corporation, and satisfactory proof that it has ceased to transact business, and that it is not indebted to the state on account of franchise taxes, shall file a certificate of the fact with the secretary of state, and shall give a duplicate certificate to the corporation; and thereupon such corporation shall be excused from filing annual returns with the secretary of state.

Sec. 33. Dividends may be made; but not to reduce capital or debts due; penalty. R. S. c. 51, § 34. Dividends of profit may be made by the directors, but the capital or the debts due shall not thereby 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 shall be fined not exceeding two thousand dollars, and imprisoned less than one year; and all sums received for such dividends may be recovered by any creditor of the corporation in an action on the case.

See §§ 78, 96, 101.

Capital Stock and Transfer of Shares.

Sec. 34. Capital fixed and divided; names of owners and their shares to be entered of record. R. S. c. 51, § 35. 1927, c. 101. The capital of corporations incorporated by special act of the legislature shall be fixed and divided into shares; and the names of the owners, and the number of shares owned by each, shall be entered of record at the first meeting. The capital may be subsequently increased as provided in sections forty and forty-one by adding to the number of shares.

Sec. 35. Transfer of shares, how made; what shall constitute a sufficient delivery. R. S. c. 51, § 36. 1919, c. 49. When the capital of a corporation is divided into shares, and certificates thereof are issued, they may be transferred by indorsement and delivery. The delivery of a certificate of stock of a corporation to a bona fide purchaser or pledgee for value, together with a written transfer of the same or a written power of attorney to sell, assign, and transfer the same, signed by the owner of the certificate, shall be a sufficient delivery to transfer the title against all parties. Certificates of shares with the seal of the corporation affixed, shall be issued to those entitled to them by transfer or

otherwise, signed by such officer or officers as the by-laws shall prescribe. Such officer or officers shall not sign blank certificates, nor sign certificates without knowledge of the apparent title of the persons to whom they are issued, unless the corporation has a duly authorized transfer agent whose duty it is to countersign each certificate issued. In case of the absence or disability of either of the officers authorized by the by-laws to issue shares by transfer or otherwise, the signatures of a majority of the directors in his stead shall be sufficient.

Sec. c. 63, § 28; c. 132, § 10; 20 Me. 305; 49 Me. 317; 68 Me. 68; *106 Me. 479.

Sec. 36. Transfer not to affect holder of record until recorded. R. S. c. 51, § 37. No transfer shall affect the right of the corporation to pay any dividend due upon the stock, or to treat the holder of record as the holder in fact, until such transfer is recorded upon the books of the corporation or a new certificate is issued to the person to whom it has been so transferred.

*106 Me. 479.

Sec. 37. May change par value of shares. R. S. c. 51, § 38. Any corporation organized under this chapter may change the par value of its shares at a meeting of the stockholders called for the purpose by a vote representing a majority of the stock issued, and a certificate thereof signed by the president or clerk shall be filed in the office of the secretary of state in the same manner as provided by law for changes in charter or certificate of organization.

Sec. 38. Assessments may be made and shares sold for neglect to pay. R. S. c. 51, § 39. Assessments, not exceeding the amount originally limited for a share, may be made on all shares, subscribed and not paid for, 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.

Sec. 39. Notice of sale; proceedings; title, how transferred to purchaser. R. S. c. 51, § 40. The treasurer, before the sale, shall give notice of the time and place thereof, of the number of shares on which the assessment is due, and of the amount due on each share, in a newspaper printed in the town, if any, if not, in the county where the office of the clerk of such corporation is established, otherwise in the state paper, three weeks successively, and such notice shall likewise be given in one other leading newspaper printed in the state; the notice in said papers shall, in all cases, be printed on the financial pages of said papers. Written or printed notice as aforesaid shall also be given to each stockholder of record in the corporation, at his last known address at least ten days before the sale. At said sale the treasurer of the corporation shall announce the market price of the stock to be sold, or if the stock has no market price, the treasurer shall make a statement of the financial condition of the company, showing what the stock is worth. If no bids are received at said sale for said stock, the treasurer of the corporation shall bid in said stock in behalf of the corporation, to be again sold by the corporation as the directors may vote; provided, however, that no rights of creditors of the corporation shall be thereby affected and such stock, so long as held by the corporation, shall have no voting power. The treasurer's certificate of the sale of such shares, recorded as other transfers, passes the title to the purchaser.

Sec. 40. Certain corporations may increase capital and change number of directors; secretary of state to be notified; duties payable to state. R. S. c. 51, § 41. 1921, c. 28. 1925, c. 196, § 2. If the stockholders of any corporation heretofore or hereafter created by special charter and not charged with the performance of any public duty, or organized under the general laws of the state, find that the amount of its capital stock is insufficient for the purposes for which

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said corporation is organized, or that the number of its directors is inconvenient for the transaction of its business, or that its purposes are inadequate, the stockholders at any annual or special meeting, the call for which shall give notice of the proposed change, may, by a vote representing a majority of the stock issued, increase the amount of its capital stock to any amount, change the number of its directors, and change its purposes by altering, abridging or enlarging the same, and the corporation shall file a certificate setting forth such changes with the secretary of state, who shall duly record the same, within twenty days thereafter, and thereupon said vote shall take effect; provided, that all certificates of change of purposes shall be submitted to the attorney general for examination and shall not be filed until it has been certified by him to be properly drawn and signed and to be conformable to the constitution and laws and that he is satisfied that such changes are made in good faith and not for the purpose of avoiding payment of fees or taxes to the state. When the capital stock is increased from ten thousand dollars or less to not exceeding five hundred thousand dollars, the corporation shall pay to the secretary of state for the use of the state the sum of forty dollars. When the capital stock is increased to any amount exceeding five hundred thousand dollars, it shall pay to the secretary of state for the use of the state the sum of ten dollars for each one hundred thousand dollars of such increase. For every change of purposes the corporation shall pay to the secretary of state for the use of the state the sum of twenty dollars before he shall be authorized to receive any certificate of change of purposes or increase of capital stock. The provisions of this section with reference to change of corporate purposes shall not apply to specially chartered corporations.

See note after § 116.

Sec. 41. Procedure for increase of capital stock or directors; duties payable.

R. S. c. 51, § 42. 1925, c. 196, § 3. 1927, c. 99. If the stockholders of any corporation created by special act of the legislature or organized under the general laws of the state and charged with the performance of any public duty, or organized for any of the purposes enumerated in section six which are not subject to fees of a like kind to those herein provided, find that the amount of its capital stock is insufficient for the purposes for which said corporation is organized, or that the number of its directors is inconvenient for the transaction of its business, the stockholders, at any annual or special meeting the call for which shall give notice of the proposed change, may, by a vote representing a majority of the stock issued, increase the amount of its capital stock to any amount and change the number of its directors; and the corporation shall file a certificate setting forth such changes with the secretary of state, who shall duly record the same within twenty days thereafter, and thereupon said vote shall take effect; subject, however, to the provisions, when applicable, of section forty-four of chapter sixty-one. When any such corporation increases its capital stock, it shall pay to the secretary of state, for the use of the state, the following fees before it shall be authorized to receive any certificate of any increase of capital stock: When the capital stock is increased from five thousand dollars or less to not exceeding ten thousand dollars, the corporation shall pay the sum of twenty-five dollars; when the capital stock is increased from ten thousand dollars to not exceeding fifty thousand dollars, it shall pay the sum of fifty dollars; when the capital stock is increased from fifty thousand dollars to not exceeding one hundred thousand dollars, it shall pay the sum of one hundred dollars; when the capital stock is increased to any amount exceeding one hundred thousand dollars, it shall pay seventy-five dollars upon every one hundred thousand dollars or fraction thereof, in excess of one hundred thousand.

See note after § 116.

Sec. 42. Reduction of capital stock; rights of creditors not prejudiced. R. S. c. 51, § 43. If the stockholders of any corporation organized under this chapter shall desire to decrease the amount of its capital stock, the stockholders, at a meeting duly called for the purpose, or at any annual meeting, when notice shall have been given of such proposed action in the call therefor, may by a vote representing a majority of all the stock issued, decrease the amount of its capital stock to any amount desired, and the corporation shall give notice of such change to the secretary of state within ten days thereafter. And each stockholder shall, within three months after such meeting, surrender such a proportion of his stock as the amount of the decrease shall bear to the amount of the capital stock before the decrease, so that each stockholder shall have the same proportion of the whole capital stock of the company as before the decrease; provided, however, that if at the time of such decrease there shall remain in the treasury of said corporation any unissued capital stock, such decrease may be affected by first retiring such unissued capital stock not exceeding the amount of such decrease. This section shall not affect or prejudice in any way the rights of creditors of such corporation existing at the time when the reduction of its capital stock authorized hereunder shall be consummated.

See note after § 116.

Sec. 43. When capital of company is impaired, stock may be reduced. R. S. c. 51, § 44. Whenever the assets of a corporation have been so diminished by losses or depreciation of property, that its capital is impaired, such corporation, at any meeting of the stockholders legally called therefor, with the consent of not less than two-thirds in amount of all its outstanding stock, expressed at such meeting or at any adjournment thereof, may reduce such stock to the extent of such impairment, and thereupon the par value of all shares issued or to be issued shall be reduced proportionately.

See note after § 116.

Sec. 44. Remedy for any stockholder who has not agreed thereto. R. S. c. 51, § 45. Within thirty days after such reduction 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 its last stockholders' meeting, for a revision of its proceedings in making said reduction, upon which bill 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 of any stockholder or officer thereof.

Sec. 45. Copy of proceedings, filed with secretary of state; penalty for failure, how recovered. R. S. c. 51, § 46. The clerk of said corporation shall file with the secretary of state a certified copy of such proceedings, within thirty days after they are taken, or forfeit one thousand dollars, to be recovered by 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 may be brought.

Sec. 46. Corporation may authorize issue of new shares. R. S. c. 51, § 47. Simultaneously with or after such reduction of its stock, such corporation may from time to time authorize the issue of new shares, of the reduced par value, until the gross capital equals the gross capital authorized by its charter or articles of association before such reduction was made, although the new shares increase the whole issue beyond the number authorized by such charter or articles.

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Sec. 47. Notice of change in charter to secretary of state. R. S. c. 51, § 48. Whenever a corporation shall make a change in its charter or certificate of organization, in any manner, for the more convenient transaction of its business, it shall forward a notice of such change to the secretary of state, who shall record the same in a book kept for that purpose.

Corporate Powers

Sec. 48. General powers of corporations. R. S. c. 51, § 49. 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.

See c. 1, § 6, ¶ xvii; 16 Me. 229; 17 Me. 442; 20 Me. 46; 23 Me. 41; 29 Me. 126;

43 Me. 182; 50 Me. 550; *56 Me. 420; 58 Me. 20; 61 Me. 167; *68 Me. 43.

Sec. 49. By-laws. R. S. c. 51, § 50. Corporations may among other provisions, 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 shareholders; by whom any and all officers, except president and directors, shall be elected; by whom vacancies in the board of directors or other offices may be filled; the tenure of the several offices, the mode of voting by proxy; and of selling shares for neglect to pay assessments; and may enforce such by-laws by penalties not exceeding twenty dollars.

*31 Me. 476, 576; 79 Me. 443.

Sec. 50. Name may be changed and effect thereof; certificate of change of name to be filed in Registry of Deeds. R. S. c. 51, § 51. 1923, c. 89. A corporation, at a legal meeting of its stockholders, may vote to change its name and adopt a new one; and when the proceedings of such meeting relating to such change of name, certified by the clerk thereof [and approved by the attorney general], 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, has the same rights, powers and privileges, and is 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; provided, that whenever any corporation, required by law to make returns to any official or department of the state, shall change its name under the general laws of the state, or under any special act of the legislature, such change shall not take effect and such new name shall not be used until said corporation shall have filed with said official or said department a certified copy of the vote of the corporation relative thereto. A certificate of the change of name of a corporation shall be filed by the clerk of the corporation in the registry of deeds of the county, in which the corporation has its location, within twenty days after the proceedings of the meeting are returned to the office of the secretary of state.

See c. 63, § 57; 68 Me. 84.

Sec. 51. Corporations may do business out of the state. R. S. c. 51, § 52. Any corporation of this state may conduct business in other states, territories, or possessions of the United States, or in foreign countries, and have one or more officers out of the state, and may hold, purchase, mortgage, and convey real estate and personal property out of this state.

Sec. 52. May create two or more kinds of stock. R. S. c. 51, § 53. Every corporation may create two or more kinds of stock with such classes and with

such designations, preferences, and voting powers, or restrictions, or qualifications thereof, as shall be fixed and determined in the by-laws, or by vote of the stockholders at a meeting duly called for the purpose.

Sec. 53. Stock may be issued for property and stock of other corporations, or for services, and not to be liable for further payment thereon. R. S. c. 51, § 54. Any corporation may purchase mines, manufactories, and other property necessary for its business, and the stock of any company or companies owning, mining, manufacturing, or producing materials or other property necessary for its business, and issue stock to the amount of the value thereof in payment therefor, and may likewise issue stock for services rendered to such corporation and the stock so issued shall be full paid stock and not liable to any further call or payment thereon; and in the absence of actual fraud in the transaction, the judgment of the directors as to the value of the property purchased, or services rendered, shall be conclusive.

105 Me. 403; 123 Me. 485.

Sec. 54. May hold shares of other corporations and exercise rights of ownership. R. S. c. 51, § 55. Any corporation organized under this chapter and any corporation organized for manufacturing, mechanical, mining or quarrying business, under special act of the legislature, may purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of the capital stock of, or any bonds, securities, or evidences of indebtedness created by any other corporation or corporations of this or any other state, territory, or country, and while owners of such stock may exercise all the rights, powers, and privileges of ownership, including the right to vote thereon.

Sec. 55. May change location from one county to another. R. S. c. 51, § 56. Any corporation organized under this chapter at a legal meeting of its stockholders, by a vote representing a majority of the stock issued, may change its location from one county to another in the state, and the corporation shall file, by its clerk or other officer, in the registry of deeds in each of said counties, within twenty days after such change of location, the certificate required by section twenty-four.

See note after § 116.

Trusts Prohibited.

Sec. 56. Formation of trusts forbidden. R. S. c. 51, § 57. 1923, c. 187. It shall be unlawful for any firm or incorporated company, or any number of firms or incorporated companies, or any unincorporated company, or association of persons or stockholders, organized for the purpose of manufacturing, producing, refining or mining any article or product which enters into general use and consumption by the people, to form or organize any trust, or to enter into any combination of firms, incorporated or unincorporated companies, or association of stockholders, or to delegate to any one or more board or boards of trustees or directors the power to conduct and direct the business of the whole number of firms, corporations, companies, or associations which may have formed, or which may propose to form a trust, combination or association inconsistent with the provisions of this section and contrary to public policy. No association or corporation organized for the sole purpose of marketing fish, shellfish, or any of the fish products or agricultural products of this state, the members of, or stockholders in which are actually engaged in the production of such products, or in the selling, canning or otherwise preserving of the same, shall be deemed to be a conspiracy or a combination or in restraint of trade or an attempt to lessen competition or to fix prices arbitrarily; nor shall the marketing contracts and agreements between such association or corporation and its members or

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stockholders be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

See c. 138, § 28.

Sec. 57. Evidence of interest in any trust not to have legal recognition. R. S. c. 51, § 58. No certificate of stock, or other evidence of interest, in any trust, combination, or association, as named in the preceding section, shall have legal recognition in any court in this state, and any deed of real estate given by any person, firm, or corporation, for the purpose of becoming interested in such trust, combination, or association, or any mortgage given by the latter to the seller, as well as all certificates growing out of such transaction, shall be void.

121 Me. 18.

Sec. 58. Penalty for being connected with any trust. R. S. c. 51, § 59. Any firm, incorporated or unincorporated company, or association of persons or stockholders, who shall enter into or become interested in such trust, combination, or association, shall be subject to a fine of not less than five, nor more than ten thousand dollars.

Rights of Minority Stockholders.

Sec. 59. Corporation not to sell franchises or entire property without consent of stockholders. R. S. c. 51, § 60. No corporation shall sell, lease, consolidate, or in any manner part with its franchises, or its entire property, or any of its property, corporate rights, or privileges essential to the conduct of its corporate business and purposes, otherwise than in the ordinary and usual course of its business, except with the consent of its stockholders at an annual or special meeting, the call for which shall give notice of the proposed sale, lease, or consolidation. All such sales, leases, and consolidations shall be subject to the provisions of this and the eleven following sections, and to the prior lien of stockholders as therein defined. Except as to franchises, this and the eleven following sections shall not be held to apply to mortgages of corporate property.

120 Me. 231; 126 Me. 108.

See note after § 116.

Sec. 60. Remedy of dissenting stockholder. R. S. c. 51, § 61. If any stockholder in any corporation which shall vote to sell, lease, consolidate, or in any manner part with its franchises, or its entire property, or any of its property, corporate rights or privileges essential to the conduct of its corporate business and purposes, otherwise than in the ordinary and usual course of its business, shall vote in the negative and shall file his written dissent therefrom with the president, clerk, or treasurer of such corporation within one month from the day of such vote, the corporation, in which he is a stockholder may within one month after such dissent is so filed, enter a petition with the supreme judicial court, sitting in equity, in the county where it held its last annual meeting, in term time or in vacation, setting forth in substance the material facts of the transaction, the action of the corporation thereon, the names and residences of all dissenting stockholders whose dissents were so filed, making such dissenting stockholders parties thereto, and praying that the value of the shares of such dissenting stockholders may be determined, and for other appropriate relief.

120 Me. 231; 126 Me. 108.

Sec. 61. If corporation fails to enter petition, dissenting stockholder may enter and prosecute the same. R. S. c. 51, § 62. If any such corporation shall fail to enter such petition as aforesaid, any stockholder dissenting as aforesaid may within one month thereafter enter such petition and prosecute the same, making such corporation party defendant. In either case the court shall fix the time of hearing and shall order notice thereof to all parties interested, by publi-

cation in some newspaper or newspapers at least two weeks successively, and such personal service as is required upon bills in equity.

120 Me. 231; 121 Me. 213.

Sec. 62. Court to determine value of shares and secure rights of stockholders; corporation to deposit amount of award in some bank; shares to become property of corporation. R. S. c. 51, § 63. The court, or any justice thereof in term time or in vacation, shall hear the parties and determine as soon as practicable the value of the stock of such dissenting stockholders; and shall make and enforce all such orders and decrees as may be necessary to secure to such stockholders all their rights. Such corporation shall, notwithstanding any appeal as hereinafter authorized, forthwith deposit the amount so awarded, in some bank or trust company designated by the court, to be by it held until final judgment, and paid to the parties as thereafter ordered by the court directing such deposit. Upon such deposit and upon compliance with final judgment as hereinafter provided, the shares of such stockholders shall become the property of such corporation, and the court may make and enforce such orders as may be necessary to secure its title thereto.

120 Me. *231; 126 Me. 108.

Sec. 63. Either party may enter appeal, and trial had before a jury; award, how paid; appellant to have lien on property of corporation. R. S. c. 51, § 64. Within thirty days after filing the decree determining such values, as aforesaid, either party may enter an appeal therefrom, to be heard at the next term of the supreme judicial court in the county where such petition is pending. The issue may thereupon, at the request of any party thereto, be submitted to a jury. If upon such trial the amount of such award is increased, the stockholder shall have judgment and execution against the petitioning corporation or corporation defending, for such increase with interest and costs; and if not increased, such corporation may withdraw from said deposit, the amount of the decrease with interest and costs. During the pendency of such appeal, the appellant shall have a lien upon all the property of the corporation interested in such sale or lease, or consolidation for thirty days after judgment on appeal. Such lien shall have precedence over any mortgages or leases made after any vote of sale, lease or consolidation. All such liens may be released upon filing with the court, a bond in such amount and with such sureties as the court may approve. Two or more stockholders may join in the same appeal.

120 Me. 231.

Sec. 64. If dissent is not filed, stockholder to be deemed to have assented; guardian may be appointed for incapacitated stockholder. R. S. c. 51, § 65. Any stockholder failing to file his dissent as required in section sixty shall be deemed to have assented to such vote. If it appears that any stockholder is legally incapacitated from giving such assent or waiver, the court shall appoint suitable guardians or representatives for such persons, and the case shall then be heard and determined as if such stockholders had filed their dissent as required by section sixty. Provided, however, that, if the proceedings hereby authorized are not had, then as against any stockholder who is a minor, or otherwise legally incapacitated, and who has no guardian, the period of one month in which to file the written dissents aforesaid shall not begin to run until the removal of the incapacity, by the appointment of a guardian or otherwise and actual notice of the vote of sale, lease or consolidation.

126 Me. 108.

Sec. 65. Stockholders to deposit in court certificates of shares; transfers to be subject to final decree. R. S. c. 51, § 66. Every stockholder appearing in answer to, or filing any petition, by himself, guardian, or other legal representa-

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tive, shall simultaneously therewith or within such time as the court may allow, deposit in court his certificate of shares duly indorsed to the corporation of which he is a shareholder, or some other sufficient transfer thereof, which shall there remain subject to the order of the court. All attachments and transfers of such shares shall be subject to the final decrees in such proceeding; and any such attaching creditor or transferee shall be allowed to become a party to the proceedings to protect his interests; and if such person, so claiming under such transfer or attachment omits or fails to intervene in such proceedings, his omission as a party shall not bar or impair the proceedings.

Sec. 66. If corporation fails to pay amount decreed, rights of stockholder; lien of dissenting stockholder. R. S. c. 51, § 67. If none of the corporations interested in such petition shall pay or deposit the amount as herein ascertained and decreed, with interest thereon, within such time as the court shall order, any stockholder, entitled to such amount, may at his option take judgment and execution therefor, with interest and costs, against such corporation or withdraw his stock aforesaid; and after such withdrawal or if said execution is returned unsatisfied within thirty days after judgment, the owner of such shares shall retain all the rights of a dissenting stockholder as though no proceedings had taken place. All stockholders entitled to a remedy hereunder, shall have a lien upon the property of the corporations in which they are stockholders which shall take precedence of all mortgages or leases, of any kind made after any vote of sale, lease or consolidation. Such liens may be released as provided in section sixty-three.

Sec. 67. Court may hear and determine petitions, and make orders for enforcement of rights of all parties. R. S. c. 51, § 68. The supreme judicial court, or any justice thereof, may in term time or vacation hear and determine said petitions, and make all orders for giving notice to non-resident parties, and taking action with reference to them, for the enforcement of the rights of any party to the proceedings, for the consolidation of two or more petitions, for the payment of interest on the adjudged value of the shares, for the payment of dividends, pending the proceedings, for interest upon the deposit aforesaid, for the distribution of costs between the parties and for enforcing its orders and decrees, as are consistent with the principles of equity practice, and as the convenient and speedy settlement of the controversy may require.

Sec. 68. If petition fails for any matter of form, new petition may be filed. R. S. c. 51, § 69. If any petition shall fail for any matter of form, any party interested therein may file a new petition within two months thereafter. No petition shall be abated by the death of any party, but may thereupon be summarily revived by suggestion and amendment.

Sec. 69. Exceptions. R. S. c. 51, § 70. The proceedings hereby authorized shall not apply to nor affect any special act relating to the rights of minority stockholders in any particular corporations enacted before the fourth day of April, eighteen hundred and ninety-one, nor any mortgage legally made.

Sec. 70. Proceedings for valuing stock under the laws of other states to be a bar to any under this chapter. R. S. c. 51, § 71. If either of the corporations interested has consolidated its stock with corporations created by any other state or states, or the stock therein is held by virtue of concurrent legislation of one or more states, and proceedings have been commenced for valuing the stock and paying the value thereof in any state having jurisdiction, such proceedings shall, while pending, be a bar to any under this chapter; but if such proceedings in any other state shall fail for any reason not touching the merits, a petition may be filed as herein provided within two months thereafter.

Corporate Contracts and Liabilities

Sec. 71. Contracts. R. S. c. 51, § 72. Corporations are bound by parol contracts made by an agent authorized by vote or by their by-laws. Contracts may be implied from corporate acts, or from the acts of the general agent.

Authority to exchange reciprocal contracts of indemnity, c. 59, § 100; 7 Me. 120; 24 Me. 38, 502; 26 Me. 435; 29 Me. 126; 103 Me. 79; 106 Me. 387; 117 Me. 291.

Sec. 72. Provisions of law relating to foreclosure of railroad mortgages given to trustees, applicable to mortgages of all corporations so given. R. S. c. 51, § 73. The provisions of chapter sixty-three, sections thirty-six to fifty-eight inclusive, shall apply to and include all mortgages of franchises, lands or other hereditaments, or of all of them, heretofore or hereafter given by any corporation to trustees to secure scrip or bonds of said corporation; and the holder of said scrip or bonds shall have the benefit of all said provisions, whether the said mortgages have been or may be foreclosed in the manner provided by section thirty-six of said chapter, or in any other legal manner, and to the extent of and with reference to the property covered by the mortgage; the new corporation, when organized, shall have the rights and privileges of the original corporation.

119 Me. 579.

Sec. 73. Service of process on foreign corporation, trustee in mortgage by domestic corporation. R. S. c. 51, § 74. In case of the mortgage of franchises, lands, or other hereditaments by any domestic corporation to a foreign corporation as trustee, service of process may be made on any authorized agent of such foreign corporation in the state; or if no such agent can be found, such service may be made upon the bank commissioner, who shall immediately notify the corporation by mail. Service made in either of said methods shall be valid and binding upon the corporation in every respect.

Sec. 74. Property and franchise may be taken for debts. R. S. c. 51, § 75. 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.

See c. 89, § 32; c. 97, § 17; 97 Me. 302; 112 Me. 439.

Sec. 75. Names of directors, clerk, and schedule of property to be furnished to an officer. R. S. c. 51, § 76. Every agent or person having charge of corporate property, shall, on request, furnish to any officer having a writ or execution against the corporation for service, the names of the directors and clerk, and a schedule of all property, including debts known by him to belong to the corporation.

Sec. 76. Officer, having an execution, may elect to take debts due to corporation; proceedings. R. S. c. 51, § 77. An officer, having an execution against a manufacturing 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 the person having custody of the evidence of such debt shall deliver it to such officer with a written transfer thereof to him for the use of the creditor, which shall 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. 77. Penalty for refusing to comply with sections 75 and 76. R. S. c. 51, § 78. Any officer or other person, who unnecessarily neglects or refuses to comply with the two preceding sections, forfeits not exceeding four times the amount due on such execution, and may be imprisoned less than one year.

Sec. 78. Books to be produced on trial; refusal punished. R. S. c. 51, § 79. When a suit or prosecution is pending for a violation of section thirty-three or

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either of the three preceding sections, the clerk or person having custody of the books of the corporation, shall, upon reasonable written notice, produce them on trial; and for neglect or refusal so to do, he is liable to the same fine or imprisonment as the party on trial would be.

Sec. 79. Foreign companies may sue and be sued here, and property attached; effect of agents' acts. R. S. c. 51, § 80. 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 have the same effect as the acts of agents of foreign private persons, unless prohibited by law.

17 Me. 36; 29 Me. 467; 55 Me. 294.

Dissolution of Corporations.

Sec. 80. Existence after charter expires. R. S. c. 51, § 81. Corporations whose charters expire or are otherwise terminated, 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.

55 Me. 293; 92 Me. 476; 106 Me. 178; 115 Me. 289; 117 Me. 84.

Sec. 81. Proceedings for obtaining injunction against continuing business. R. S. c. 51, § 82. Whenever any corporation shall become insolvent, or be in imminent danger of insolvency, or whenever through fraud, neglect or gross mismanagement of its affairs, or through attachment, litigation or otherwise, its estate and effects are in danger of being wasted or lost, or whenever it has ceased to do business, or its charter has expired or been forfeited, upon application of any creditor or stockholder by bill in equity filed in the supreme judicial court in the county in which it has an established place of business, or in which it held its last stockholders' meeting, upon which bill such notice shall be given as may be ordered by any justice of such court, in term time or vacation, such court may, if it finds that sufficient cause exists, issue an injunction, both temporary and permanent, restraining said corporation, its officers and agents, from receiving any moneys, paying any debts, selling or transferring any assets of the corporation, or exercising any of its privileges or franchises until further order, and may at any time make a decree dissolving said corporation.

*102 Me. 371; 103 Me. 277; *109 Me. 458; 113 Me. 182, 532; 114 Me. 184; 115 Me. 289; 117 Me. 84; 120 Me. 108.

Sec. 82. Appointment of receivers; attachments dissolved. R. S. c. 51, § 83. At the time of ordering any such injunction or at any time afterwards during its continuance, such court may also appoint one or more receivers to wind up the affairs of the company, who shall be duly sworn, and give bond in such sum and upon such conditions as such court shall determine, and shall at all times be subject to the direction and control of the court, which may at any time remove said receiver and appoint another in his place. All attachments made within thirty days before the filing of any such bill in equity, wherein a receiver is so appointed, shall thereupon be dissolved.

See c. 56, § 61; 113 Me. 182; 114 Me. 184; 115 Me. 289; 117 Me. 84.

Sec. 83. Authority of receiver; to report to court. R. S. c. 51, § 84. Such receiver shall have power to institute or defend suits at law or in equity, in his own name as receiver, to demand, collect and receive all property and assets of said corporation, to sell, transfer, or otherwise convert the same into cash, and to conduct and carry on the business of said corporation, as ordered by the court, if it appears for the best interests of all concerned. He shall report to the court at least as often as every six months a statement of all the assets and liabilities of

said corporation, and from time to time shall distribute the assets of said corporation as provided in section eighty-seven.

113 Me. 86; 114 Me. 184; 117 Me. 84; 120 Me. 444.

Sec. 84. Presentation of claims. R. S. c. 51, § 85. Whenever a receiver is appointed as above, the court shall limit a time, not less than four months, of which decree notice shall be given, within which all claims against said corporation shall be presented, and make such order for the manner of hearing and proving the same as may be just and proper.

113 Me. 180, 532; 114 Me. 184; 117 Me. 84.

Sec. 85. Sale of property and franchises; receiver may accept claims in payment. R. S. c. 51, § 86. Said court may in its discretion, in lieu of decreeing the dissolution of such corporation, order the receiver to sell its property and franchises; and the purchaser thereof shall succeed to all the rights and privileges of such corporation, and may reorganize the same under the direction of said court. At any sale of such property at public auction, the court may, in its discretion, authorize the receiver to accept in payment, duly allowed claims against such corporation, at a proper valuation.

117 Me. 84; 126 Me. *141.

Sec. 86. Jurisdiction in equity. R. S. c. 51, § 87. The court shall have jurisdiction in equity of all proceedings hereunder and may make such orders and decrees as equity may require.

113 Me. 182; 117 Me. 84; 120 Me. 112.

Sec. 87. Distribution of assets. R. S. c. 51, § 88. The debts of the corporation shall be paid in full, 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 shall be distributed among the stockholders or their legal representatives in proportion to their interests.

111 U. S. 110; 60 Me. 173, 182; 79 Me. 316; 102 Me. 376; 106 Me. 181; 113 Me. 536; 117 Me. 84.

Sec. 88. Bill in equity against corporations for dissolution; if no liabilities, dissolution may be had without trustees. R. S. c. 51, § 89. 1923, c. 13. Except where otherwise provided by statute, whenever at any meeting of its stockholders, legally called therefor, such stockholders vote to dissolve such corporation, a bill in equity against the same for dissolution thereof may be filed by any officer, stockholder, or creditor in the supreme judicial court, in the county in which it has an established place of business, or in which it held its last stockholders' meeting; upon said bill, notice shall be given by the clerk of courts to the attorney general and such notice shall be given to others as may be ordered by any justice of said court, in term time or vacation, and upon proof thereof, such proceedings may be had according to the usual course of suits in equity, that said corporation shall be dissolved and terminated. Upon proof that there are no existing liabilities against said corporation, and no existing assets thereof, requiring distribution among the stockholders, said court may dissolve said corporation without the appointment of trustees or receivers.

79 Me. 316; *106 Me. 179; 107 Me. 187.

Note. It has been suggested by Mr. Wilson of Andrews, Nelson and Gardiner that a proviso should be added preserving the right of a corporation to liquidate and distribute its assets itself. The reason urged is that as the section now reads many corporations are afraid to so liquidate, although this power is probably not intended to be affected.

Sec. 89. Jurisdiction of court; court may superintend collection and distribution of assets. R. S. c. 51, § 90. Said court has 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

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trustees, who shall have all the powers conferred upon similar trustees by sections eighty, eighty-seven and ninety-seven, or by any other law of the state, with such special powers as may be 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.

^{106 Me. 179; 107 Me. 187.}

Sec. 90. No relief from liability. R. S. c. 51, § 91. Nothing in the two preceding sections relieves any officer, shareholder, or other person from any liability, except as provided therein.

Sec. 91. Decree of dissolution to be filed with secretary of state. R. S. c. 51, § 92. A copy of every decree or judgment dissolving a corporation or forfeiting its charter shall be forthwith filed by the clerk of the court in the office of the secretary of state and there recorded.

Liability of Stockholders.

Sec. 92. Personal representatives not liable. R. S. c. 51, § 93. Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be if they were respectively living and competent to act and hold the stock in their own names.

^{104 Me. 155.}

Sec. 93. Pledge of stock not liable as a stockholder. R. S. c. 51, § 94. A pledgee for value, holding a certificate of stock of a corporation for security merely, shall not, while he so holds such stock, be subject to any of the liabilities of a stockholder, unless he appears on the books of the corporation as the absolute owner of such stock.

Sec. 94. Except in banks, stockholders not liable beyond amount of stock. R. S. c. 51, § 95. No stockholder in any corporation, except in banks, trust and banking companies, and when otherwise provided by the act of incorporation has, after February twenty-four, eighteen hundred and seventy-one, been liable for the debts of or claims against such corporation beyond any amounts withdrawn or not paid in, as provided in the two following sections; but neither this section nor the four following, 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.

^{See c. 56, § 93; 75 Me. 521; 86 Me. 66; 89 Me. 127; 92 Me. 444.}

Sec. 95. Capital stock subscribed is for security of creditors; payment of subscription to be bona fide. R. S. c. 51, § 96. 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 to or agreement 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.

^{64 Me. 382; 78 Me. 178; 82 Me. 403, 511; 86 Me. 66; 92 Me. 451; *93 Me. 163.}

Sec. 96. Withdrawal of capital stock, void as against judgment creditor, receivers, or trustees. R. S. c. 51, § 97. No dividend declared by any corporation from its capital stock or in violation of law, no withdrawal of any portion of such stock, directly or indirectly, no cancelation or surrender of any stock, and no transfer thereof in any form to the corporation which issued it, is valid as against any person who has a lawful and bona fide judgment against said corporation, based upon any 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 an insolvent corporation.

64 Me. 382; 78 Me. 178; 82 Me. 402; 86 Me. 66; 93 Me. 163; 111 Me. 475.

Sec. 97. Proceedings may be by action on the case, or bill in equity; stockholder not liable unless debt was contracted during ownership of stock, nor for mortgage debt. R. S. c. 51, § 98. Any person having such judgment, or any such trustees, receivers, or other persons appointed to close up the affairs of an insolvent corporation, 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 persons, if a bill in equity, jointly or severally, otherwise severally, who have subscribed for or agreed to take stock in said corporation and have not paid for the same; or who have received dividends declared from the capital stock, or in violation of law; or who have withdrawn any portion of the capital stock, or canceled and surrendered any of their stock, and received any valuable consideration therefor from the corporation, except its own stock or obligation therefor; 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 they 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 is 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 are commenced during the ownership of such stock, or within one year after its transfer by such stockholder is recorded on the corporation books.

*64 Me. 382; 78 Me. 178; 82 Me. 402; 83 Me. 323; 84 Me. 75; 86 Me. 66, 75, 492; 88 Me. 612; 92 Me. 451; 93 Me. 163; 111 Me. 475; 113 Me. 87.

Sec. 98. Evidence in defense. R. S. c. 51, § 99. A defendant in such suit may prove that he has already in good faith paid by himself or through another 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 person authorized to receive it, or to the corporation itself, the whole or any part of any amounts for which he would be liable under this chapter; or that he has already in good faith and without collusion been sued for, and is still in peril of being compelled to pay, such amounts in whole or in 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 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 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 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

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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; and proof of any of such matters is a full or partial defense for such defendant.

*78 Me. 178; *84 Me. 73, 75, 76; 86 Me. 66; 89 Me. 488.

Sec. 99. Stockholders, paying for corporation, may recover contribution. R. S. c. 51, § 100. When members of a corporation are liable for its debts, or for 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 of such corporation by an action at law, or a bill in equity; and the court may make all necessary orders and decrees.

36 Me. 84.

Sec. 100. Capital not to be divided until debts paid. R. S. c. 51, § 101. Corporations, not created for literary, benevolent, or banking purposes, shall not so divide any of their corporate property as to reduce their stock below its par value, until all debts are paid, and then only for the purpose of closing their concerns.

59 Me. 474.

Sec. 101. Judgment creditor may file bill in equity in certain cases. R. S. c. 51, § 102. 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 of 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 shall in answer thereto, disclose on oath all facts within their knowledge relating to such property in their hands, or received by a division among stockholders. When either of them has the custody of the records of the corporation, he shall produce them and make extracts therefrom and annex them to his answer, as the court directs.

*77 Me. 474; III U. S. 110.

Sec. 102. Proceedings, trial, and decree in the suit. R. S. c. 51, § 103. The court shall 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.

III U. S. 110.

Sec. 103. On dissolution, estate vests in shareholders. R. S. c. 51, § 104. When a corporation is dissolved, its real and personal estate is vested in the persons who were at the time shareholders, as tenants in common according to their interests.

16 Me. 318; 29 Me. 134; *36 Me. 190; 66 Me. 400; 79 Me. 316; 121 Me. 18.

Sec. 104. Property of inhabitants of counties, towns, etc., may be taken for debts. R. S. c. 51, § 105. The property of the inhabitants of counties, towns, cities, 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.

See c. 97, §§ 30-32; I Me. 364; 47 Me. 141; *49 Me. 328; 68 Me. 507; 101 Me. 149; III Me. 99.

Sec. 105. Issue of bonds payable by instalments, authorized. R. S. c. 51, § 106. Any county, city, town, or water district, or corporation organized

under the laws of this state, having occasion to issue bonds, may make them payable in instalments of uniform or increasing amounts extending over a period not exceeding fifty years. Provisions shall be made for the payment of not less than one per cent of the whole issue each year and, in case the time of payment extends over a period of fifty years, the instalments shall cover the whole issue. In case the time of payment extends over a period of less than fifty years, a portion of the issue greater than the regular instalment may be made payable at the end of the period. Limitations upon the time for which bonds may be issued, are modified in accordance herewith; provided, however, that this section shall not be construed to prevent any county, city, town, or water district, or municipal, private, or other corporation organized under the laws of this state, from issuing bonds and making them payable in the same manner as it might do, if this section were not enacted; and no bonds issued prior to the third day of July, nineteen hundred and nine, if valid in other respects, shall be deemed invalid on account of any failure to comply with the provisions of this section.

Note. Proceedings for sale on execution of titles of banks or corporations as mortgagees of lands, c. 89, § 39.

Proceedings for sale on execution of shares of stockholders in a corporation, c. 97, §§ 12-16, 23.

Proceedings for sale on execution of franchise of corporations having right to receive toll, c. 97, §§ 17-20; of franchises of railroad corporations, § 21.

Foreign Corporations.

Sec. 106. Foreign corporations, before doing business in the state to appoint an attorney; power of attorney and copy of vote to be filed; service of process. R. S. c. 51, § 107. Every corporation established under laws other than those of this state, for any lawful purpose, other than as a bank, savings bank, trust company, surety company, safe deposit company, insurance company, or public service company, which has a usual place of business in this state or which is engaged in business in this state permanently or temporarily, without a usual place of business therein, shall before doing business in this state, in writing appoint a resident of the state, having an office or place of business therein, to be its true and lawful attorney upon whom all lawful processes in any action or proceedings against it may be served; and in such writing, which shall set forth said attorney's place of residence, shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served on it, and that the authority shall continue in force so long as any liability remains outstanding against it in this state. The power of attorney and a copy of the vote authorizing its execution, duly certified and authenticated, shall be filed in the office of the secretary of state and copies certified by him shall be sufficient evidence thereof. Service of such process shall be made by leaving a copy of the process in the hands or in the office of the said attorney, and such service shall be sufficient service upon the corporation. Such appointment shall continue in force until revoked by an instrument in writing, designating in a like manner some other person upon whom such process may be served, which instrument shall be filed in the manner provided herein for the original appointment.

115 Me. 1; 115 Me. *387.

Note. The constitutional objection suggested by Mr. Justice Morrill in his report as commissioner to revise statutes, dated 1915, p. 612, and further emphasized by the decision in 115 Me. 387, should receive the attention of the legislature, with a view to modifying §§ 106-113.

Sec. 107. Copy of charter and by-laws and certificate filed before transacting business; officers and directors subject to penalties; validity of contracts

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not affected. R. S. c. 51, § 108. Every such foreign corporation before transacting business in this state, shall file with the secretary of state a copy of its charter, articles or certificate of incorporation, certified under the seal of the state or country in which such corporation is incorporated by the secretary of state thereof or by the officer having charge of the original record therein, a true copy of its by-laws and a certificate in such form as the secretary of state may require, setting forth:

- (a) The name of the corporation;
- (b) The location of its principal office;
- (c) The names and addresses of its president, treasurer, clerk or secretary, and of the members of its board of directors.

(d) The date of its annual meeting for the election of officers;

(e) The amount of its capital stock, authorized and issued, the number and par value of its shares and the amount paid in thereon to its treasurer. Said certificates shall be subscribed and sworn to by its president, treasurer or clerk. The officers and directors of such corporation shall be subject to the same penalties and liabilities for false and fraudulent statements and returns as officers and directors of a domestic corporation. Every officer of such a corporation which fails to comply with the requirements of this section and of sections one hundred six, and one hundred ten, and every agent thereof who transacts business as such in this state shall, for such failure, be liable to a fine of not more than five hundred dollars. Such failure shall not affect the validity of any contract with such corporation, but no action shall be maintained or recovery had in any of the courts of this state by any such foreign corporation so long as it fails to comply with the requirements of said sections.

*115 Me. 1, 387.

Note. See *International Text-Book Co. vs Pigg*, 217 U. S. 91; *International Text-Book Co. vs Lynch*, 218 U. S. 664; *Buck's Stove & Range Co. vs Vickers*, 226 U. S. 205.

Sec. 108. Secretary of state may refuse to file papers or accept appointment as attorney. R. S. c. 51, § 109. The secretary of state shall refuse to accept or file the charter, certificate, or other papers of, or accept appointment as attorney for service for, any such corporation which does a business in this state, the transaction of which by domestic corporations is not then permitted by the laws of this state.

Sec. 109. Corporation to file certificate of increase or decrease of capital stock. R. S. c. 51, § 110. Every such foreign corporation shall, within thirty days after the payment in of an increase of capital stock, file in the office of the secretary of state a certificate of the amount of such increase and the fact of such payment, signed and sworn to by its president, treasurer, or clerk. Within thirty days after the vote of such corporation authorizing a reduction of its capital stock, a copy of such vote, signed and sworn to by the clerk of the corporation, shall be filed in the office of the secretary of state.

Sec. 110. Duty payable to state; notice of change in certificate of charter to be filed with secretary of state. R. S. c. 51, § 111. 1925, c. 196, § 4. Every such foreign corporation shall annually, on or before the first day of March, pay to the secretary of state for the use of the state a license fee of ten dollars. It shall also annually within thirty days after the date fixed for its annual meeting, or within thirty days after the final adjournment of said meeting, but not more than three months after the date fixed for said meeting, prepare and file in the office of the secretary of state, a certificate signed and sworn to by its president, treasurer, or clerk, showing the change or changes, if any, in the particulars included in the certificate required by section one hundred and seven made since the filing of said certificate or of the last annual

report. If no changes have occurred, a certificate to that effect shall be sufficient.

Sec. 111. Penalty for violation of section 110. R. S. c. 51, § 112. Any foreign corporation which omits to file the certificate required by section one hundred and ten shall forfeit to the state not less than five, nor more than ten dollars, for each day for fifteen days after the expiration of the period therein named, and not less than ten, nor more than two hundred dollars, for each day thereafter, during which such omission continues.

Sec. 112. Secretary of state to notify corporation upon failure to file required certificate. R. S. c. 51, § 113. The secretary of state upon the failure of any such corporation to file the certificate required by section one hundred and ten shall forthwith notify such corporation, and the notice shall contain a copy of this and the two preceding sections, but failure on the part of the secretary of state to so notify shall not relieve any corporation of any of the duties or liabilities imposed thereon.

Sec. 113. Liability of officers. R. S. c. 51, § 114. The officers of such foreign corporations shall be jointly and severally liable for all the debts and contracts of the corporation contracted or entered into while they are officers thereof, if any statement or report, required by the provisions of the seven preceding sections, made by them, is false in any material representation and known to them to be false; but only the officers who sign such statement or report shall be so liable.

Non-Par Corporations.

Sec. 114. Certificate of incorporation may provide for issuance of stock par value not stated. Exceptions. Conditions. R. S. c. 51, § 115. 1917, c. 144. 1921, c. 224. Upon the organization under the laws of this state of any corporation the organization of which is authorized under the provisions of section seven of this chapter, or upon the amendment of the certificate of organization in the manner now or hereafter provided by law of any present existing corporation organized pursuant to the provisions of this chapter, provision may be made for the issuance of all or any one or more classes of its stock of whatever kind without par or face value, by stating in the certificate of organization or in the certificate of amendment, in lieu of the statements now required by law as to the amount of the corporation's capital stock and the number and par value of the shares into which the same is to be divided:

(a) The number of shares with a par or face value and the number of shares without a par or face value that may be issued by the corporation and the classes, if any, into which such shares are divided.

(b) The par or face value of shares other than shares which it is stated are to have no par or face value.

Note. See note after § 9.

Sec. 115. Certificates for shares of stock; what may and may not be set forth thereon. R. S. c. 51, § 116. 1917, c. 144. 1921, c. 224. In the case of certificates for shares of stock issued under the preceding section, it shall be unlawful to set forth any par value or value in dollars thereon, or to express any rate of dividend to which the shares represented thereby shall be entitled in terms of percentage of any par or other value. Every such certificate shall have plainly stated on its face the number of shares which it represents and each such share (except as to preferences, rights, limitations, privileges, and restrictions, lawfully granted or imposed with respect to any stock or class thereof) shall be deemed to be equal to every other share of the same class.

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Preferences, rights, limitations, privileges, and restrictions authorized by the laws of this state may be stated in dollars and cents per share.

Sec. 116. How non-par shares may be disposed of; to be fully paid and non-assessable; number of non-par shares may be increased or reduced. R. S. c. 51, § 117. 1917, c. 144. 1921, c. 224. Corporations may issue and dispose of their authorized shares having no par or face value for such consideration as may be prescribed in the certificate of organization or in the certificate of amendment, or if no consideration is so prescribed then for such consideration as may be fixed by the stockholders at a meeting duly called and held for the purpose, or by the board of directors when acting under general or special authority granted by the stockholders. Any and all shares issued for the consideration prescribed or fixed in accordance with the provisions of this section shall be fully paid and non-assessable. The authorized number of shares without par or face value may be increased or reduced by a majority vote of the issued and outstanding shares at a meeting duly called for the purpose, or at an annual meeting, when notice shall have been given of such proposed action in the call therefor, and the corporation shall file a certificate thereof with the secretary of state within ten days thereafter, and thereupon said change shall take effect.

Note. It has been suggested by attorneys for non par corporations that the vote required in this section should be by a majority of the issued and outstanding shares "having voting powers as provided by its by-laws." The reason urged is that the voting powers are usually limited to the common stock. The argument to the contrary is that the change is a fundamental one affecting all the stock. If thought wise to make this change, a similar change should be made in § 117. Other sections to which the same consideration applies with more or less force are §§ 40, 41, 42, 43, 55, 59.

Sec. 117. Payment of fee for recording notice of change, provided for. R. S. c. 51, § 118. 1917, c. 144. 1921, c. 224. 1925, c. 196, § 5. Any corporation, the organization of which is authorized under this chapter, having outstanding shares with par value, may, at a meeting duly called and held for the purpose, by vote of the holders of two-thirds of its outstanding stock, and upon paying the fee provided for recording the notice of a change in the charter or certificate of organization, change such shares or any class thereof into an equal number of shares without par or face value, or provide for the exchange thereof pro rata for an equal or different number of shares without par or face value, provided the preferences, rights, limitations, privileges, and restrictions lawfully granted or imposed with respect to the outstanding shares, so changed or exchanged, shall not be impaired, diminished, or changed without the consent of all the holders thereof, such preferences, rights, limitations, privileges, and restrictions, however, to be expressed in dollars or cents per share rather than by reference to par or face value.

See note after § 116.

Sec. 118. Preferred stock may be called in and retired; property and assets not to be reduced below outstanding liabilities. R. S. c. 51, § 119. 1917, c. 144. 1921, c. 224. Corporations formed pursuant to the provisions of this chapter may provide that preferred stock, both with and without par value, may be called in and retired in such manner and at such price as may be provided in the provision describing the preference of such stock; provided, however, that no preferred stock shall thus be called in or retired if thereby the property and assets of the corporation shall be reduced below the amount of its outstanding debts and liabilities.

Sec. 119. Duty payable to state; amount payable based on excess of last prior authorization. R. S. c. 51, § 120. 1925, c. 196, § 6. Before filing the certificate of incorporation or any certificate of increase in the number of shares of a corporation having shares without nominal or par value, there shall be

paid to the secretary of state for the use of the state one cent per share on all shares authorized in excess of the last prior authorization, but in no case less than ten dollars. The amount of the annual franchise tax to be paid to the state in the case of such corporations shall be five mills per share on all shares authorized, but in no case less than ten dollars.

Sec. 120. Corporation laws not inconsistent applicable. R. S. c. 51, § 121. 1921, c. 224. The laws applicable to corporations having shares of stock with par value shall apply to corporations issuing shares without par or face value, except as otherwise provided in the six preceding sections.

CHAPTER 56.

Banking. Loan and Building Associations. Small Loan Agencies. Dealers in Securities.

Sections 1- 5	The Bank Commissioner. Restrictions Upon Banking.
Sections 6- 12	Organization of Savings Banks.
Sections 13- 60	Management of Savings Banks.
Sections 61- 96	Trust and Banking Companies.
Sections 97-122	Loan and Building Associations.
Sections 123-130	Better Protection of Banks in Particular Transactions.
Sections 131-139	Industrial or Morris Plan Banks.
Sections 140-157	Licensed Small Loan Agencies.
Sections 158-170	Registration of Dealers in Securities.

The Bank Commissioner. Restrictions Upon Banking.

Sec. 1. Appointment of bank commissioner; bond; duty not to disclose information; penalty. R. S. c. 52, § 1. 1923, c. 144, § 1. The governor, with the advice and consent of the council, shall appoint a bank commissioner, who shall hold his office for four years, and until his successor is appointed and qualified, and who may be removed from office by the governor and council for cause, and shall not during his continuance in office hold any office in any bank in the state, nor receive directly or indirectly any remuneration or fee of any kind from any bank, banking house, corporation, association, or individual for examining any property or properties or securities. He shall give bond with sureties or authorized surety company in the sum of twenty thousand dollars, to be approved by the state treasurer for the faithful performance of his duties, and the expense of securing said bond shall be paid by the state. No information derived by or communicated to the commissioner, deputy commissioner, or any examiner or employee of the department in the course of official duty shall be disclosed except, first, to United States government officials charged with the duty of supervising national banks; second, to Federal Reserve officials; third, to banking departments of other states. Whoever violates the foregoing provision shall be punished by a fine of not more than one thousand dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

72 Me. 556.

Sec. 2. Banking business must be authorized; banking defined. R. S. c. 52, § 2. 1923, c. 144, § 2. 1925, c. 193. No person, copartnership, association, or corporation shall do a banking business unless duly authorized under the laws of this state or the United States, except as provided by section four. The solicit-

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ing, receiving, or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association, or corporation, or a corporation intended to derive profit from the loan of money except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive, shall be deemed to be doing a banking business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass-book, a note, a receipt, or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal.

*118 Me. 257.

Sec. 3. Penalty for violation. R. S. c. 52, § 3. 1923, c. 144, § 3. Whoever violates section two of this chapter, either individually or as an interested party in any copartnership, association, or corporation, shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than sixty days nor more than one year, or by both such fine and imprisonment.

Sec. 4. Application of mercantile corporation to the bank commissioner; to file statement of financial condition; license and bond. R. S. c. 52, § 3. 1923, c. 144, § 4. A corporation desiring to encourage thrift among its employees by receiving deposits subject to interest at a specified rate, may apply to the bank commissioner for a license to receive such deposits and shall, at the same time, file with the commissioner a complete statement of its financial condition, **sufficient to satisfy the commissioner of its solvency.** If satisfied that the applying corporation is solvent and reputable, the commissioner may, at his discretion, issue a license to such corporation, authorizing it to receive such deposits from its employees only, upon filing with the treasurer of state its bond, payable to him and his successors in office for the use of its depositors, and secured by a surety company, authorized to do business in this state, in such amount as the bank commissioner may specify in such license, conditioned for the payment of all such deposits and interest thereon. All such bonds shall at the expiration of five years from the date thereof be deemed insufficient and shall be renewed by the giving of a new bond to be approved as above provided. The bank commissioner may order a new bond to be given at any time when he deems the existing obligation to be insufficient.

Sec. 5. Only banks and trust companies may use as part of name the words "bank," "savings," "trust," and kindred words; penalty. R. S. c. 52, § 5. 1923, c. 144, § 5. 1927, cc. 57, 150. No person or partnership, and no association or corporation, organized after the twenty-third day of April, nineteen hundred and five, except such person or partnership as is in effect the successor to any person or partnership bearing the same name and title, and organized prior to said date, unless duly authorized under the laws of this state or of the United States to conduct a banking or trust company business, shall, on and after the first day of January, A. D. nineteen hundred and twenty-eight, use as a part of their name or title, or as designating their business, the word or words "bank," "banker," "savings," "savings bank," "savings department," "trust," "trust company," "banking," or "trust and banking company," or the plural of any such word or words in, or in connection with, any other business than that of a bank or trust company duly authorized as aforesaid. Any person, partnership, association, or corporation violating the provisions of this section or attempting to mislead or give a false impression to the public that such person, partnership, association, or corporation is authorized under the laws of this state to do a trust company business may be enjoined therefrom by any court having general equity jurisdic-

tion, on application of the bank commissioner or of any person, corporation, or association injured or affected by such use, and any person or persons violating the provisions of this section either individually, as members of any association or copartnership, or as interested in any such corporation, shall be punished by a fine of not exceeding one thousand dollars, or by imprisonment for not less than sixty days nor more than one year, or by both fine and imprisonment.

Organization of Savings Banks.

Sec. 6. Powers of savings banks as corporations. R. S. c. 52, § 6. 1923, c. 144, § 6. All savings banks or institutions for savings, lawfully organized, are corporations possessed of the powers and functions of corporations generally, and as such have power:

- I. To have perpetual succession, each by its corporate name.
- II. To sue and be sued, complain and defend, in any court of law or equity.
- III. To adopt and use a common seal.
- IV. To make by-laws not inconsistent with the laws of the state or of the United States, for the management of their property and the regulation of their affairs. The clerk shall file with the bank commissioner a copy of such by-laws and all amendments thereto.
- V. To receive money on deposit, to invest the same, to own, maintain, and let safe deposit boxes and vaults, and further to transact the business of a savings bank, as hereinafter provided.

Sec. 7. Organization. R. S. c. 52, § 7. 1923, c. 144, § 7. Any number of persons, not less than thirteen, may associate themselves for the purpose of organizing a savings bank in accordance with this chapter; three-fourths of such number shall reside in the county where the proposed bank is to be located, and may fill vacancies and add to their number from time to time as they desire. All incorporators shall be residents of the state.

Sec. 8. Certificates to be sent to the secretary of state and bank commissioner. R. S. c. 52, § 8. 1923, c. 144, § 8. Such persons shall execute duplicate certificates, sworn to before a justice of the peace, one of which shall be deposited with the secretary of state for record, and the other sent to the bank commissioner, in which shall be set forth: the name of the bank; the names of all the corporators and the places where they reside; their business occupations; and the place where its business is to be transacted; together with the reasons why a bank is needed in such place.

Sec. 9. Notice of intention to organize. R. S. c. 52, § 9. 1923, c. 144, § 9. A notice of intention to organize such bank, signed by all the corporators, shall be published once a week for three weeks in some newspaper published in said county where said bank is to be located, if any, otherwise in some newspaper published in an adjoining county.

Sec. 10. Duty of bank commissioner. R. S. c. 52, § 10. 1923, c. 144, § 10. When the commissioner receives the certificate, with the published order of notice, if he finds that the foregoing provisions have been complied with, he shall, from the best information at his command, ascertain whether public convenience and advantage will be promoted by the establishment of such savings bank.

Sec. 11. Commissioner to issue certificate of authorization to corporators, and file duplicate with secretary of state. R. S. c. 52, § 11. 1923, c. 144, § 11. If the commissioner is so satisfied, 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 therein, or to a portion of them, together with

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such other persons as a majority of those named in such certificate of association, 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 five preceding sections.

Sec. 12. Corporation, when authorized to transact business. R. S. c. 52, § 12. 1923, c. 144, § 12. Upon the filing of such certificate with the secretary of state, the persons named therein, and their successors, are, thereupon and thereby, constituted a body corporate and politic, vested with all the powers conferred, and charged with all the liabilities imposed by the six preceding sections.

Management of Savings Banks.

Sec. 13. Savings banks, their powers and liabilities. R. S. c. 52, § 13. 1923, c. 144, § 13. Savings banks and institutions for savings, incorporated under the authority of 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.

68 Me. 518; 116 Me. 231.

Sec. 14. Institutions, legally organized. R. S. c. 52, § 14. 1923, c. 144, § 14. Savings banks and institutions for savings which have exercised the privileges thereof and done business as such for one year shall be held to be legally organized.

Sec. 15. Membership in corporation. R. S. c. 52, § 15. 1923, c. 144, § 15. Every such corporation shall consist of not less than thirty members, and may, at any legal meeting, by a vote 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 who fails to attend the annual meetings for two successive years ceases to be a member, unless re-elected by a vote of the corporation.

Sec. 16. Officers; trustees, number and restrictions. R. S. c. 52, § 16. 1923, c. 144, § 16. The officers of every such corporation shall consist of a president, treasurer, and, when in the opinion of the trustees necessary, a vice-president and an assistant treasurer, and not less than five trustees, not more than two of whom shall be directors of any one national bank, trust company, or other banking institution, who shall elect from their number or otherwise such other officers as they see fit. All officers shall be annually sworn to the faithful performance of their duties, and shall hold their several offices until others are chosen and qualified in their stead. The trustees, in their discretion, may appoint an investment board to have charge of the loans and investments of the bank, but all doings of such board shall be reported to the trustees at their regular meetings.

72 Me. 227.

Sec. 17. Officers of savings banks not to act as agents for certain corporations; treasurers and trustees, regulations relating to. R. S. c. 52, § 17. 1923, c. 144, § 17. No president, treasurer, clerk, or employee of any savings bank shall act as agent or representative of any corporation engaged in the business of selling or negotiating any bonds, mortgages, notes, or other choses in action, nor receive directly or indirectly any fee, commission, bonus, or other compensation for the sale or transfer of any security. No cashier in a national bank or trust and banking company shall be treasurer of any savings bank, the deposits of which exceed one hundred and fifty thousand dollars; and if the treasurer of a savings

bank, having deposits not exceeding one hundred and fifty thousand dollars, is cashier in a national bank or trust and banking company, the board of trustees of such savings bank shall not include more than one director, nor more than two stockholders in the national bank or trust and banking company so connected therewith. No treasurer or assistant treasurer shall, directly or indirectly, engage in any other business or occupation without the consent of the majority of the trustees evidenced by resolution duly recorded.

Sec. 18. Trustees, their election and duties; office, how vacated. R. S. c. 52, § 18. 1923, c. 144, § 18. 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 becomes a trustee or officer in any other savings bank or institution for savings, thereby vacates his office as such trustee. Trustees shall hold regular meetings at least monthly, and shall cause full and complete records of their proceedings to be kept.

68 Me. 404.

Sec. 19. Officers, their election and term; treasurer, ex-officio clerk; bonds of treasurer and assistant treasurer and their annual examination; compensation of officers fixed by trustees; compensation of trustees. R. S. c. 52, § 19. 1923, c. 144, § 19. The trustees, immediately after their election and qualification, shall elect one of their number president, who shall also be president of the corporation. They shall also elect a treasurer, and when deemed necessary, a vice-president and 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 president, treasurer, assistant treasurer and all other officials and employees handling or having access to moneys or securities shall give bonds to the corporation, for the faithful discharge of the duties of their office, in such sums as the trustees decide to be necessary for the safety of the assets, and such bonds shall continue and be valid from year to year, so long as they act in such capacities, subject to renewal whenever ordered by the trustees or commissioner. Each president and treasurer shall be bonded for a sum not less than fifteen thousand dollars, each assistant treasurer, or other official or employee having access to moneys or securities for not less than five thousand dollars. All bonds shall be approved as to form by the bank commissioner and copies furnished the banking department by the clerks of the several banks. Said bonds shall be recorded upon the books of the institutions, and the commissioner shall annually examine the same and inquire into and certify to the sufficiency thereof, and when he deems any such bond insufficient, he shall order a new bond to be given within a time by him specified. All such bonds shall, at the expiration of five years from the date thereof, be deemed insufficient. All such bonds hereinafter given under the provisions of this section shall be executed by the principal and one or more surety companies authorized to transact business in this state, and bonds with personal sureties shall no longer be regarded as complying with the provisions hereof. The trustees may, in lieu of such bonds, insure at the expense of the bank with some surety company which shall be satisfactory to the bank commissioner for the faithful performance of the duties of such officials and employees as are required by this section to be bonded, in such sums as they shall decide to be necessary for the safety of the assets in the custody of the corporation, but in no event less than twenty-five thousand dollars; subject, however, to the same right of the bank commissioner, as above provided, to require a new bond if at any

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time he shall deem the one provided by the corporation to be insufficient and unsatisfactory in amount or form. The treasurer, assistant treasurer, and clerks shall receive a compensation 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 state laws, for making examinations of property and for attendance at any regular or special meetings of the board of trustees or any committee thereof as may be fixed by the corporation at any legal meeting thereof, or as may be fixed by the board of trustees and approved by the bank commissioner in writing.

See § 72; 69 Me. 369.

Sec. 20. Clerks to publish list of officers and corporators; to return copy of list to bank commissioner; penalty for neglect. R. S. c. 52, § 20. 1923, c. 144, § 20. Within thirty days after the annual election in the several savings banks, the clerks thereof shall cause to be published in some local newspaper, if any, otherwise in the nearest newspaper, a list of the officers and corporators thereof. They shall also return a copy of such list of officers and corporators to the bank commissioner within said thirty days, which shall be kept on file in his office for public inspection. Any clerk who neglects to give such notice or make such return shall be liable to a penalty of fifty dollars.

Sec. 21. Vacancies; meetings of the corporation. R. S. c. 52, § 21. 1923, c. 144, § 21. If any office becomes vacant during the year, the trustees may fill the same until it is filled at the next annual meeting, and vacancies occurring in the board of trustees shall be immediately filled whenever the number of trustees shall fall below the statutory minimum. Special meetings of the corporation may be held at any time by order of the trustees; the treasurer shall also call special meetings upon application in writing of ten members of the corporation. Seven days' notice of all annual meetings shall be given by public advertisement in some newspaper of the county where the corporation is established, if any; otherwise, in the state paper.

Sec. 22. Regulation of deposits, and their amount; deposits in trust. R. S. c. 52, § 22. 1923, c. 144, § 22. Savings banks and institutions for savings may receive on deposit, for the use and benefit of depositors, sums of money offered for that purpose; but shall not receive, except for deposits of unmarried women, minors, administrators, executors, guardians, charitable or religious institutions, and as trust funds, from any one depositor over five thousand dollars, and no dividends shall be paid, excepting upon the aforesaid excepted deposits, to any one depositor upon any amount of deposit exceeding said sum, but exclusive of dividends on said deposit, which may continue to be added thereto and receive dividends thereon. Deposits in more than one name may be received, provided the total of the amounts in any number of deposits in which the same name, excepting unmarried women, minors, administrators, executors, guardians, charitable or religious institutions, and as trust funds, appears either singly or with others, shall not exceed, exclusive of dividends as aforesaid, ten thousand dollars, and also provided the amount of an individual deposit shall at no time exceed, exclusive of dividends, as aforesaid, five thousand dollars. Whenever a deposit is made in trust the name and residence of the person for whom it is made, or the purpose for which the trust is created, shall be disclosed in writing to the bank, and the deposit shall be credited to the depositor as trustee for such person or purpose; and if no other notice of the existence and terms of a trust has been given in writing to the corporation, the deposit, with the interest thereon, may, in the event of the death of the trustee, be paid to the person for whom such deposit was made, or to his legal representative, or to some trustee appointed by

the court for that purpose. The trustees may refuse any deposit at their pleasure.
72 Me. 276; 73 Me. 72; 90 Me. 551.

Sec. 23. Authority to pay any order notwithstanding death of drawer. R. S. c. 52, § 23. 1923, c. 144, § 23. Any bank, institution for savings, or trust company may pay any order drawn by any person who has funds on deposit to meet the same, notwithstanding the death of the drawer in the interval of time between signing such order and its presentation for payment when said presentation is made within thirty days after the date of such order; and at any subsequent period provided the corporation has not received actual notice of the death of the drawer.

Sec. 24. Deposits of married women or minors are property of depositors. R. S. c. 52, § 24. 1923, c. 144, § 24. Money deposited in a bank, institution for savings, or trust company, by a married woman, is her property and she may maintain an action in her own name to recover it. Money deposited in the name of a minor is his or her property, and the corporation may, in the discretion of the officer making the payment, pay the same to such minor or upon his or her order or to his or her guardian, and such payment shall be valid. The foregoing provisions as to ownership do not apply to money belonging to a third person and fraudulently deposited by or in the name of a married woman or minor, but payment to such married woman or minor by said bank, institution for savings, or trust company, without notice of such fraud, shall be valid. The receipt of such married woman or minor for such deposits and interest, or any part thereof, is a valid release and shall discharge the corporation.

Sec. 25. Deposits in the names of two persons. R. S. c. 52, § 25. 1923, c. 144, § 25. When a deposit has been made or shall hereafter be made in any bank, institution for savings, trust company, or loan and building association transacting business in this state, in the names of two persons, payable to either, or payable to either or the survivor, such deposit, or any part thereof, or the interest or dividends thereon, may be paid to either of said persons, whether the other be living or not, or to the legal representative of the survivor of said persons, and the receipt or acquittance of the person to whom said payment is so made shall be a valid and sufficient release and discharge to such bank, institution for savings, trust company, or loan and building association, for any payment so made. No deposit account payable to two or more persons or the survivor or survivors shall hereafter be opened in any bank, savings bank, or trust company, and no shares so payable shall hereafter be issued by any loan and building association, unless and until the person opening such account or taking such shares shall file with such bank or association a written statement that each of such depositors or shareholders has a present bona fide legal interest therein, and that such account is not opened or such shares taken out for the purpose of transferring title to the same or any part thereof after the decease of any of the joint depositors or shareholders, nor for the purpose of evading the inheritance tax laws of this state.

126 Me. *98, 253.

Sec. 26. Duplicate book of deposit, in case of loss of original. R. S. c. 52, § 26. 1923, c. 144, § 26. 1925, c. 105. When the person to whom a book of deposit was issued by any savings bank or by any trust company for a deposit in its savings department, or his executor, or administrator, or guardian, in writing notifies the treasurer of the bank or trust company issuing the same, that such book is lost, and that he 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 once a week for three weeks succes-

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sively, in some newspaper published in the town in which said bank or trust company is located, if any, otherwise in one published in the county, if any, and if not, then in the state paper. If such missing deposit book is not presented to said treasurer within thirty days after the first advertisement, then he shall issue a duplicate book of deposit to the person thus requesting the same, and such delivery of a duplicate relieves said bank from all liability on account of the original book of deposit so advertised.

Sec. 27. Investment of deposits. R. S. c. 52, § 27. 1923, c. 144, § 27. 1927, cc. 20, 30, 34, 35, 66. Savings banks and institutions for savings may hereafter invest their funds as follows, and not otherwise:

I. Government obligations. a—In the bonds and other interest-bearing obligations of the United States, including those for the payment of the principal and interest of which the faith and credit of the United States government is pledged.

b—In bonds constituting a direct and primary obligation of the Dominion of Canada, the principal and interest of which are payable in United States funds.

II. Obligations of states and provinces of Canada. In the bonds or other interest-bearing obligations of any state in the United States, and in the bonds constituting a direct and primary obligation of any province of the Dominion of Canada, the principal and interest of which are payable in United States funds, provided the above mentioned bonds or interest-bearing obligations of any state and bonds of any province, have not, for a period of more than ninety days, defaulted in the payment of the principal or interest of any obligation within a period of ten years immediately preceding the investment.

III. Obligations of counties. a—In the bonds or other interest-bearing obligations of any county in this state.

b—In the bonds or other interest-bearing obligations of any county in any other state in the United States which at the date of the investment has more than fifty thousand inhabitants and whose net debt does not exceed three per cent of the last preceding valuation of the taxable property therein; provided, however, that neither such county nor the state in which it is situated shall have defaulted for more than ninety days in payment of principal or interest of any obligation within a period of ten years immediately preceding the investment, that all issues for highway purposes shall be payable serially to mature in not more than twenty years, and that the principal and interest are payable from a direct tax to be levied on all the taxable property within such county; provided, however, that only such portion of such highway issue shall be legal as will be due and payable in not less than fifteen years from date of issue.

c—The term "net debt" shall be construed to include all bonds which are a direct obligation of the county, less the amount of any sinking fund available in the reduction of such debt.

IV. Municipal obligations. a—In the bonds or other interest-bearing obligations of any municipal or quasi-municipal corporation of this state, provided such securities are a direct obligation on all the taxable property thereof.

b—In the bonds or other interest-bearing obligations of any city or town in any other state in the United States, incorporated at least twenty-five years prior to the date of investment, and having according to each of the last two censuses of the Federal Government, a population of not less than ten thousand; provided that neither such municipality nor the state in which it is situated shall, for more than ninety days, have defaulted in the payment of principal or interest of any obligation within a period of ten years immediately preceding the investment, that the net debt of any such municipality whose population is less than five hundred thousand shall not exceed five per cent of the assessed valuation of the taxable property therein, and that the net debt of any such municipality whose

population is in excess of five hundred thousand shall not exceed eight per cent of the assessed valuation of the taxable property therein. The obligations of any municipality which comply with the provisions of this section except for the fact that such municipality has been incorporated within twenty-five years of the date of the investment shall be held to be legal for the purposes of this section if the territory comprising such municipality shall for more than twenty years have had a population of not less than ten thousand, and have been during said time a part of one or more towns or cities having a population of not less than ten thousand, or have contained within its limits a municipality having a population of not less than ten thousand.

c—In the bonds or other interest-bearing obligations of any quasi-municipal corporation, other than an irrigation or drainage district, within the territorial limits of any city or town whose obligations are eligible under the provisions of sub-section b, of this section, or comprising within its limits one or more such municipalities; provided, however, that the population and valuation of any such quasi-municipal corporation incorporated within a single city or town shall be at least seventy-five per cent of the population and valuation of the city or town in which it is located; and provided, further, that such obligations shall be enforceable by a direct tax levied on all the taxable property within such corporation.

d—The term "net debt" as applied to a municipality shall be construed to include not only all bonds which are a direct obligation of the municipality, but also all bonds of quasi-municipal corporations within the same, exclusive of any such debt created for a water supply and of the amount of any sinking fund available in reduction of such debt. The securities of any municipality or quasi-municipal corporation shall not be held to be a direct obligation on all the taxable property thereof within the meaning of the foregoing provisions in any state which by statute or constitutional provision prevents the levying of sufficient taxes to meet such obligations.

V. Federal Land Banks. In the bonds or other interest-bearing obligations of any federal land bank or joint stock land bank organized under any act of congress enacted prior to April 4, 1923.

VI. Obligations of steam railroads. a—In the bonds, notes, or other interest-bearing obligations of any Maine corporation owning and operating a steam railroad located principally within this state, having a mileage of not less than five hundred miles of road, exclusive of sidings, including all obligations assumed or guaranteed by such corporation and issued by any lessor, subsidiary, or affiliated corporation, provided that the assumption or guaranty thereof shall have been authorized and approved in the manner and to the extent required by state or federal law at the time of such assumption or guaranty.

b—In the bonds or notes issued, or assumed, by any steam railroad corporation organized under the laws of any other state in the United States; provided,

1. Such corporation shall own in fee not less than five hundred miles of standard-gauge railroad, exclusive of sidings, within the United States, or shall own not less than one hundred miles and have received each year for a period of five successive years next preceding the investment a gross operating income of not less than ten million dollars.

2. Such obligations shall be secured (a) by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, on at least seventy-five per cent of all the mileage of such corporation owned in fee, or (b) by a refunding mortgage providing for the retirement of all prior lien bonds outstanding at the date of issue and covering at least seventy-

five per cent of the mileage owned in fee by said corporation; provided, however, that all bonds secured by said refunding mortgage shall mature at a later date than any bond which it is given to refund, or if any such bonds are to mature at an earlier date the mortgage must provide that such bonds shall be retired by a like amount reissued under said mortgage, or (c) by a mortgage prior to a refunding mortgage above described covering some part of the railroad property included in such refunding mortgage, if the bonds secured by such prior mortgage are to be refunded by said refunding mortgage and the property covered by such prior mortgage is operated by the corporation issuing the refunding mortgage, or (d) by a first mortgage on the property of a leased road forming a substantial portion of the system of the operating company.

3. Such corporation shall have earned and received for a period of five successive calendar or fiscal years next preceding the investment a net income of not less than one and one-half times the annual interest on its debts outstanding during that period and secured by the mortgage under which the bonds in question are issued and all prior liens, and also shall have earned and received for a period of twelve consecutive months within the fifteen months next preceding investment a net income of not less than one and one-half times the annual interest on its debt outstanding at the time of investment, secured as aforesaid. The time during which any railroad may have been operated by the government of the United States under the provisions of any act or acts of congress heretofore enacted, and a period of two years thereafter, may be excluded in determining whether the bonds of any railroad corporation are able to qualify under the provisions of this paragraph.

In determining the income of any corporation for the purposes of the foregoing paragraph there shall be included the income of any corporation or corporations out of which it shall have been formed through consolidation or merger, and of any corporation whose business and income-producing property has been wholly acquired by the corporation issuing, assuming, or guaranteeing the bonds in question. The net income of a railroad for the purposes of the foregoing paragraph shall be determined after deducting all operating expenses, maintenance charges, depreciation, rentals, taxes, and guaranteed interest and dividends paid by or due from it.

4. The total of the bonds and notes issued under the mortgage securing the bonds in question and all prior liens, exclusive of those issued for refunding or otherwise retiring prior lien obligations, shall not exceed three times the outstanding capital stock of such corporation at the date of investment.

c-- 1. In equipment bonds or notes issued under the Philadelphia plan, so-called, and secured by standard equipment leased to any steam railroad corporation in the United States any of whose mortgage bonds are eligible under the provisions of this section; provided, however, that the amount of such securities outstanding shall at no time exceed eighty per cent of the cost of the equipment by which they are secured.

2. In the prior lien equipment obligations or equipment trust certificates issued by the National Railway Service Corporation in pursuance of any equipment trusts financed in whole or in part through a loan or loans made or approved by the Interstate Commerce Commission, provided such securities are issued for not exceeding in par value sixty per cent of the cost of standard railway equipment and that such obligations shall mature

in approximately equal annual or semi-annual installments over a period not exceeding fifteen years; provided, however, that not more than two per cent of the deposits of any bank be invested in the foregoing obligations.

d—In the first mortgage bonds of any terminal or bridge company guaranteed as to principal and interest by any railroad corporation any of whose mortgage obligations are eligible under the provisions of this section.

e—Not more than twenty-five per cent of the deposits of any one bank shall be invested in steam railroad obligations and not more than two per cent of such deposits in the obligations of any single railroad corporation whose mileage is located principally outside the state of Maine.

VII. Public utility obligations. a—In the bonds or notes issued or assumed by any Maine corporation subject to the jurisdiction of the Maine public utilities commission and carrying on in this state the business for which it was organized; provided, however, that such securities shall first have been duly authorized by said commission under the laws of Maine, if at the time of their issue such authorization was required by law.

b—In the mortgage bonds, or other interest-bearing obligations secured by mortgage, issued or assumed by any corporation, at least seventy-five per cent of whose gross income is derived from the operation of an electric railroad, electric light and power business, artificial gas business, or a combination thereof, or from furnishing municipal and domestic users with a water supply; provided,

1. Such corporation shall be subject to the jurisdiction of a public utilities commission, public service commission or some other tribunal exercising supervisory functions, ordinarily incident to such commission, and the issuance of the securities in question shall have been duly authorized by such commission, if at the time of their issue such authorization was required by law.

2. At least fifty-one per cent of the corporation's property shall be located in, and fifty-one per cent of its business transacted within the United States.

3. Such corporation shall own in fee not less than fifty-one per cent of the property used by it in the carrying on of its business.

4. Such corporation shall have received average gross earnings of at least five hundred thousand dollars per year in each of its three fiscal years, or three nearer periods of one year next preceding investment.

5. Such corporation shall have earned and received an average net income, including income from investments, for a period of three fiscal years, or a nearer period of three years next preceding such investment, of not less than twice the annual interest on its debt outstanding during that period and secured by the mortgage under which the bonds in question are issued and all prior liens, and also shall have earned and received for a period of twelve consecutive months within the fifteen months next preceding investment a net income of not less than one and one-half times the annual interest on its debt outstanding at the time of investment, secured as aforesaid, and shall not have defaulted on any of its obligations during the same period. The net income of such corporation for the purposes of this section shall be determined after deducting all operating expenses, maintenance charges, depreciation, rentals, taxes, and guaranteed interest and dividends paid by or due from it.

6. Such obligations shall mature at least three years before the expira-

tion of the principal franchise or franchises under which such corporation is operating, or there shall exist some statute or definite agreement or contract with the grantors whereby such franchise or franchises may be renewed or extended from time to time throughout and beyond the life of the bonds in question, under which statute, agreement or contract the security of such obligation is adequately protected, except where such company is operating under an indeterminate franchise granted by a public utilities commission or public service commission.

7. Such obligations shall be secured (a) by a first mortgage, or a mortgage or trust indenture which is in effect a first mortgage, on at least seventy-five per cent of all the property of such corporation owned in fee, or (b) by a refunding mortgage providing for the retirement of all prior lien bonds outstanding at the date of investment and covering at least seventy-five per cent of the property owned in fee by said corporation; provided, however, that all bonds secured by said refunding mortgage shall mature at a later date than any bond which it is given to refund, or if any such bonds are to mature at an earlier date the mortgage must provide that such bonds shall be retired by a like amount reissued under said mortgage, or (c) by a mortgage prior to a refunding mortgage above described covering some part of the public utility property included in such refunding mortgage, if the bonds secured by such prior mortgage are to be refunded by said refunding mortgage and the property covered by such prior mortgage is operated by the corporation issuing the refunding mortgage, or (d) by a first mortgage on the property of a lessor public utility forming a substantial portion of the system of the operating company.

8. The total of the bonds and notes issued under the mortgage securing the bonds in question and all prior liens, exclusive of those authorized for refunding or otherwise retiring prior lien obligations, shall not exceed three times the outstanding capital stock of such corporation at the date of investment.

c—Not more than thirty-five per cent of the deposits of any one bank shall be invested in the obligations of the above specified public utility corporations and not more than two per cent of such deposits in the obligations of any single utility whose business is transacted principally outside the state of Maine.

VIII. Obligations of telephone companies. a—In the mortgage bonds, and other interest-bearing obligations secured by mortgage, issued or assumed by any telephone company incorporated under the laws of any state of the United States whose property is located chiefly in the United States; provided,

1. Such corporation shall have received gross revenues of at least five million dollars per year in each of its three fiscal years, or three nearer periods of one year, next preceding such investment.

2. Such corporation shall have earned and received a net income, including income from investments, in each of its three fiscal years, or three nearer periods of one year, next preceding such investment, not less than twice the annual interest on its debt secured by the mortgage under which the bonds in question are issued and all prior liens, and shall not have defaulted on any of its obligations during the same period. The net income of such corporation for the purpose of this section shall be determined after deducting all operating expenses, including maintenance and depreciation charges, rentals, taxes, and guaranteed interest and dividends paid by or due from it.

3. Such obligations shall be secured (a) by a first mortgage on at least seventy-five per cent of all the property of such corporation owned in fee, or (b) by a refunding mortgage providing for the retirement of all prior lien bonds outstanding at the date of investment and covering at least seventy-five per cent of the property owned in fee by said corporation; provided, however, that all bonds secured by said refunding mortgage shall mature at a later date than any bond which it is given to refund, or if any bonds are to mature at an earlier date the mortgage must provide that such bonds shall be retired by a like amount reissued under said mortgage, or (c) by a mortgage prior to a refunding mortgage above described covering some part of the telephone company property included in such refunding mortgage if the bonds secured by such prior mortgage are to be refunded by said refunding mortgage and the property covered by such prior mortgage is operated by the corporation issuing the refunding mortgage, or (d) by a first mortgage on the property of a lessor company forming a substantial portion of the system of the operating company.

b—Collateral trust bonds of any such telephone company secured by the deposit with a trust company or national bank of bonds and/or of shares of stock of subsidiaries or other telephone companies, under an indenture of trust which limits the amount of bonds so secured to not more than seventy-five per cent of the value of the securities deposited as stated and determined in said indenture, and provided that the company issuing such collateral trust bonds shall have received average gross revenues of not less than seventy-five million dollars in each of its three fiscal years or three nearer periods of one year, next preceding such investment, and provided, further, that such telephone company shall for the same period have earned and received a net income, including income from investments, not less than three times the annual interest on the bonds in question and all prior liens.

c—Not more than ten per cent of the deposits of any one bank shall be invested in obligations of telephone companies, and not more than two per cent in the obligations of any single telephone company.

IX. Bonds of Maine corporations. In the bonds or other interest-bearing obligations of any Maine corporation, other than those hereinbefore specifically mentioned, actually conducting in this state the business for which such corporation was created, which for a period of three successive fiscal years, or three nearer periods of one year, next preceding the investment, has earned and received an average net income of not less than twice the interest on the obligations in question and all prior liens. Not more than twenty-five per cent of the deposits of any one bank shall be invested in the obligations of such corporations and not more than two per cent of such deposits in the obligations of any single corporation.

X. Stocks of Maine corporations. a—In the stock of any Maine corporation other than a banking corporation actually conducting in this state the business for which such corporation was created, provided such corporation has for a period of three years next preceding the investment earned and received an average net income equivalent to at least six per cent upon the entire outstanding issue of the stock in question.

b—The aggregate of all investments made by any bank in stock shall at no time exceed five per cent of its deposits and not more than one per cent of the deposits of such bank shall be invested in the stock of any single corporation.

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No such bank shall hold by way of investment or as security for loans, or both, more than one-fifth of the capital stock of any corporation; but this limitation shall not apply to assets acquired in good faith upon judgments for debts or in settlements to secure debts.

XI. Mortgage loans. In notes or bonds secured by first mortgages of real estate in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and Vermont, to an amount not exceeding sixty per cent of the market value of such real estate. No bank shall have more than sixty per cent of its deposits invested in such mortgages.

XII. Collateral loans. a—In notes with a pledge as collateral of any securities which the institution itself may lawfully purchase under the provisions of this section, provided the market value of such collateral is at least ten per cent in excess of the amount of the loan.

b—In notes with a pledge as collateral of any savings deposit book issued by any savings bank, trust company, or national bank in this state or in any of the other New England states or the state of New York, or of a passbook or share certificate issued by any loan and building association in this state.

c—In notes with a pledge as collateral of the stock of any trust company organized under the laws of Maine, or any national bank having its principal place of business in this state, the market value of such collateral to be at all times at least twenty per cent in excess of the amount of the loan.

d—In notes with a pledge as collateral of the stock or bonds of any manufacturing, steam railroad, telephone, telegraph, or any other public utility corporation, providing such corporation shall, for each of the three years next preceding the time when such loan is made, have paid dividends upon such stock or any issue junior thereto at a rate of not less than six per cent per annum, or interest upon such bonds at a rate of not less than five per cent per annum; the market value of such collateral to be at all times at least twenty per cent in excess of the loan.

e—The aggregate of all collateral loans made by any bank, other than those secured by obligations of the United States government, shall at no time exceed ten per cent of its deposits and not more than one per cent of its deposits shall be loaned on the obligations and stock of any single corporation.

f—In war veterans' compensation certificates issued in accordance with the provisions of the world war adjusted compensation act of the United States as amended, to an amount not in excess of the value of said certificates, at the time of the loan, according to the United States table of values as stated in said certificates.

XIII. Loans to municipal corporations. In loans to any municipal or quasi-municipal corporation in this state when duly authorized by such municipality or corporation.

XIV. Loans to Maine corporations. In loans to any religious, charitable, educational, or fraternal corporation organized under the laws of this state, or to the trustees of any unincorporated religious, charitable, educational, or fraternal association in this state, or to any log-driving company incorporated under the laws of this state, and in loans to any corporation whose stock may be purchased under the provisions of sub-section X of this section; provided, however, that the total amount of loans to any corporation and of the par value of its stock owned by the bank shall at no time exceed two per cent of the deposits of said bank.

XV. Acceptances. a—In bankers' acceptances and bills of exchange of the kind and maturities made eligible by law for rediscount with Federal Reserve

banks, provided the same are accepted by a trust and banking company incorporated under the laws of this state, or a member of the Federal Reserve System located in any of the New England states or the state of New York.

b—In bills of exchange drawn by the seller on the purchaser of goods sold and accepted by such purchaser of the kind and maturities made eligible by law for rediscount with Federal Reserve banks, provided the same are indorsed by a trust and banking company incorporated under the laws of this state, or a member of the Federal Reserve System located in any of the New England states or the state of New York.

c—Not more than ten per cent of the assets of any savings bank or institutions for savings shall be invested in such acceptances. The aggregate amount of the liability of any trust and banking company or of any national bank to any savings bank or institution for savings, whether as principal or indorser, for acceptances held by such savings bank or institution for savings, shall not exceed twenty per cent of the paid-up capital and surplus of such trust and banking company or national bank, and not more than five per cent of the assets of any savings bank or institution for savings shall be invested in the acceptances of a trust and banking company or of a national bank of which a trustee of such savings bank or institution for savings is a director.

XVI. Department certificates of legality. The bank commissioner shall ascertain what bonds and other interest-bearing obligations are legal investments under the provisions of sub-sections I to VIII, inclusive, of this section, and within the first ten days of May and November of each year shall send to each savings bank a certificate stating, over his signature, that upon investigation, he finds the obligations specified in said certificate are legal investments under the provisions of this section. Said certificate shall be prima facie evidence of the correctness of the findings of said commissioner and shall so continue until the issuance of the next certificate of said commissioner, or of an intermediate certificate correcting and changing the list of legal investments in the certificate last issued. Nothing herein contained shall be construed to require any action by the bank commissioner as a condition precedent to the right of any savings bank to purchase any security conforming to the requirements of the provisions of this section at the time of investment.

Any person or corporation financially interested in any such finding of the bank commissioner may take an appeal therefrom to any justice of the supreme judicial court, who, after such notice and hearing as he deems proper, may inquire into and render a judgment whether such obligation is a legal investment for savings banks under the provisions of this section.

The proper and necessary expenditures incurred by the bank commissioner in carrying out the provisions of this section, including the compensation of any person or persons specially employed for that purpose, shall be chargeable to the fund created by the payment of registration fees by dealers in securities and their agents and salesmen.

XVII. Guaranteed mortgage bonds. In bonds or notes which are the obligations of a mortgage company having a capital and surplus of not less than two hundred thousand dollars organized under the laws of any of the United States and engaged in the real estate mortgage business within the United States, subject to the following conditions:

The total amount of such bonds or notes shall not exceed fifteen times the combined capital and surplus of the mortgage company, and such bonds or notes shall mature within ten years of the date of issue.

Such bonds or notes shall be guaranteed as to principal and interest by endorse-

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ment on each bond or note by a banking or surety company organized either under the banking or insurance laws of any of the United States (hereinafter called the guaranteeing company) authorized to do business in this state and having a combined capital and surplus of not less than ten million dollars and independent of the mortgage company.

No bonds shall be qualified under this sub-section which bear the guarantee of any company which has outstanding bonds guaranteed by it in excess of fifteen times its combined capital and surplus.

Such bonds or notes shall be secured by a deposit with a bank or trust company as trustee of either (a) a closed first mortgage or closed first mortgages on improved real estate capable of producing income owned in fee, or (b) cash, obligations of the United States or other bonds legal for savings banks in the New England States, New York, or New Jersey.

The aggregate of the mortgages at face value, the cash, and securities at market value shall be not less than one hundred per cent. of the principal amount of said bonds or notes outstanding.

The mortgages deposited as security to secure said bonds or notes shall mature before the maturity of the bonds or notes which they secure and shall constitute a closed first mortgage or closed first mortgages on improved real estate, (improved real estate as herein defined shall consist of land owned in fee and the buildings actually constructed thereon and shall not include farm property, churches, factories, clubs, business garages, hotels, theaters, or hospitals); the face value of each mortgage deposited shall be in amount not more than sixty per cent. of the market value of the property upon which it is secured, such value to be established by independent appraisers approved by the guaranteeing company, and no one mortgage shall exceed one hundred thousand dollars.

The guaranteeing company shall inspect and approve each mortgage before it is deposited as security for said bonds or notes.

The trustee shall be a bank or trust company in the United States having a combined capital and surplus of not less than one million dollars, and be independent of the mortgage or guaranteeing company.

The mortgage company shall have the right to make changes or substitutions in the collateral deposited as security to secure said bonds or notes, the guaranteeing company and trustee first inspecting and approving the change or substitution in the collateral.

Policies of insurance adequately covering each mortgaged building against damage by fire shall be deposited with the trustee, and tornado and earthquake insurance policies shall be deposited with the trustee on mortgages secured by property in states where such insurance is customarily required.

Titles to the mortgage properties shall be guaranteed by a title insurance company approved by the bank commissioner of Maine.

Not more than ten per cent of the deposits of any one bank shall be invested in the bonds or notes authorized by this sub-section, and said bonds or notes legalized hereunder are subject to the provisions relating to certificates of legality as set forth in sub-section sixteen.

Sec. 28. May acquire and hold stocks, bonds, and other securities not authorized by law, to avoid loss. 1923, c. 144, § 28. Savings banks and institutions for savings may acquire and hold stocks, bonds, and other securities not authorized by law, hereafter acquired in settlements and reorganizations and accepted to reduce or avoid loss on defaulted loans and investments held by said banks and institutions, and may continue to hold such stocks, bonds, and other securities heretofore so acquired, and all other investments lawfully acquired, and shall not be obliged to sell or dispose of the same except at such times and in

such manner as will prevent unnecessary loss or embarrassment to the business of the bank or institution.

Sec. 29. Investments, value as carried on books; authority of commissioner; financial reports; penalty for false reports. R. S. c. 52, § 29. 1923, c. 144, § 29. All investments having a fixed maturity, shall be charged and entered on the books of the bank at their cost to the bank. The bank commissioner may require any investment charged down to such sum as in his judgment represents its fair value. He may at any time call for a report of the financial condition of any corporation offering, or likely to offer, its bonds, stocks, or notes to any savings bank in the state, or whose notes are held by any such savings bank, as much in detail as he may require, verified by the oath of such officers or an abstract thereof, to the officers of any of said savings banks. If such report is not furnished the bank commissioner within the time specified in his call therefor, or within such extension of time as he may grant, the bonds, stocks, and notes of such corporation shall thereupon cease to be a legal investment for savings banks under this section and shall not again become a legal investment until a report in all respects satisfactory to the bank commissioner is furnished. Any officer of a corporation who wilfully makes a false report hereunder, and any officer, trustee, director, clerk, or employee of a savings bank, trust company, or loan and building association who wilfully and knowingly undertakes in any manner to deceive or mislead the bank commissioner, or any officer or representative of the state banking department, as to the true condition or value of any of the investments of such savings bank, trust company, or loan and building association, or wilfully conceals any material fact connected therewith, shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding two years, or by both such fine and imprisonment.

Sec. 30. Limitation of real estate holding. R. S. c. 52, § 30. 1923, c. 144, § 30. Any such bank or institution may hold real estate in the city or town in which such bank or institution is located, to an amount not exceeding five per cent of its deposits or to an amount not exceeding its reserve fund, but these limitations shall not apply to real estate acquired by the foreclosure of mortgage of said corporation as he may specify. He may communicate any such report, thereon, or upon judgment for debts, or in settlements to secure debts.

Sec. 31. May deposit on call in banks and may deposit collateral for time loans, made without the state. R. S. c. 52, § 33. 1923, c. 144, § 31. Savings banks and institutions for savings may deposit on call in banks or banking associations incorporated under the authority of this state, or the laws of the United States, or in any member bank of the Federal Reserve System located in any of the New England states or the state of New York, and receive interest for the same; and may deposit, subject to the approval of the bank commissioner, with such banks or banking associations any securities received as collateral for time loans made to any person or corporation without the state.

Sec. 32. Authority to borrow money and pledge securities. R. S. c. 52, § 34. 1923, c. 144, § 32. Savings banks and institutions for savings may, by vote of the trustees of such corporation, when in the judgment of said trustees such action is necessary to pay depositors and to prevent loss by sales of assets, borrow money within or without the state and may pledge bonds, notes, or other securities as collateral therefor. The trustees of such corporation shall cause a copy of said vote to be sent forthwith to the bank commissioner, and shall also notify him of any action taken thereunder.

Sec. 33. Trustees to invest; no loan to be made to any officer. R. S. c. 52,

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§ 35. 1923, c. 144, § 33. 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 officer of the corporation, or to any firm of which such officer is a member.

68 Me. 404; 71 Me. 52.

Sec. 34. **Dividends from earnings; maintenance of reserve fund; excess, when to be divided. Dividends, declared only by vote of trustees; not to exceed earnings of bank.** R. S. c. 52, § 36. 1923, c. 144, § 34. The trustees, after passing to the reserve fund one-quarter 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 exceeding two and one-half per cent semi-annually, except as hereinafter provided, at such times as are required by their by-laws, among depositors of three months standing at least before dividend day. The corporation may by its by-laws include deposits of less standing. The reserve fund shall be kept constantly on hand, to secure against losses and contingencies, until it amounts to five per cent of the deposits. All losses shall be passed to the debit of said account. When said reserve fund amounts to ten per cent of the average amount of deposits for six months previous to declaring a dividend, all net profits not otherwise divided, thereafter made by said banks, may be divided every three years ratably among depositors of one, two and three full years' standing, as extra dividends. No dividends or interest shall be declared, credited or paid, except by a vote of the board of trustees, entered upon their records, whereon shall be recorded the yeas and nays upon such vote. Trustees of savings banks and savings institutions are forbidden to make any semi-annual dividends of a rate per cent which will make the aggregate amount of said dividend greater than the actual earnings of the bank or institution, actually collected in said six months period; provided, however, that a temporary deficiency in actual collections may be supplemented by taking from the reserve fund, with the written consent of the bank commissioner, an amount sufficient to maintain the customary dividend rate.

Sec. 35. **Dividends to be credited within sixty days.** R. S. c. 52, § 37. 1923, c. 144, § 35. The treasurer of every savings bank or institution for savings shall, within sixty days after a dividend is declared, credit the same to the deposit account. Any treasurer neglecting or refusing so to do shall be punished by a fine of not less than one hundred, nor more than two hundred dollars.

Sec. 36. **Interest on deposits prohibited.** R. S. c. 52, § 38. 1923, c. 144, § 36. No deposit shall be received under an agreement to pay any specified sum of interest for its use, other than regular semi-annual and extra dividends; provided, however, that savings banks may contract, on terms to be agreed upon, for the deposit at intervals within a period of twelve months, of sums of money in the aggregate not in excess of the statutory limit on deposits in savings banks, and for the payment of interest on the same at a rate not more than the rate of their last regular dividend on savings deposits. A sum thus accumulated, if left in such a depository as a regular savings deposit, within fifteen days after the date on which money ordinarily begins to draw interest, may, if the depository so provides, draw interest from such prior date.

Sec. 37. **Notice of withdrawal on deposits.** R. S. c. 52, § 39. 1923, c. 144, § 37. No savings bank shall be required to pay any depositor more than fifty dollars at any one time or in any one month until after ninety days' notice.

Sec. 38. **Treasurer may assign, discharge, and foreclose mortgages.** R. S. c. 52, § 40. 1923, c. 144, § 38. The treasurer may, under the direction of the trustees, 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. 39. Trustees to effect insurance. R. S. c. 52, § 41. 1923, c. 144, § 39. The trustees shall cause all real estate of an insurable character held by them absolutely, or in mortgage, to be fully insured, and the expense of such insurance in case of mortgage, if paid by the bank, shall be added to the amount of the mortgage debt to be refunded in case of redemption.

Sec. 40. Assets of bank, connected with other bank, to be kept separate. R. S. c. 52, § 42. 1923, c. 144, § 40. All coins, bills, notes, bonds, securities, and evidences of debt, comprising the assets of any 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 also separate and apart from the assets or property of any other bank, banker, corporation, partnership, individual, or firm.

Sec. 41. Securities to be kept within the state. R. S. c. 52, § 43. 1923, c. 144, § 41. All securities owned or held by savings banks shall be kept within the state, except as provided in sections thirty-one and thirty-two of this chapter, and except when a sale or exchange thereof shall require delivery out of the state, or when necessary to send any of them out of the state temporarily for purposes incident to the business of owning or managing such securities by savings banks; 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 commissioner.

Sec. 42. Treasurer to make trial balance weekly; annually to record net sum of each deposit. R. S. c. 52, § 44. 1923, c. 144, § 42. The treasurer of every savings bank, shall, every Saturday, make and declare a trial balance, which shall be recorded in a book kept for that purpose; and shall also, at least once in each year, cause to be entered on a suitable book, the net sum of each individual deposit at a fixed date, and ascertain the aggregate of all such deposits, and whether it agrees with the other books of said bank; and said books shall be open at all times for the inspection of the trustees, corporators and bank commissioner.

Sec. 43. Treasurer to make annual return to the bank commissioner. R. S. c. 52, § 45. 1923, c. 144, § 43. The treasurer of every savings bank and institution for savings shall annually, and as much oftener as the bank commissioner may require, make return of the condition and standing thereof at such time as the bank commissioner designates, which return shall be made to said commissioner within fifteen days after the day designated in the blank form of such return furnished to every such bank or institution by the commissioner.

Sec. 44. Treasurer to annually publish statement of inactive accounts; penalty for neglect. R. S. c. 52, § 46. 1923, c. 144, § 44. The treasurer of every savings bank and institution for savings shall on or before the first day of November annually cause to be published in a newspaper in the place where the bank or institution is located, if any, otherwise in a newspaper published in the nearest place thereto, a statement containing the name, the amount standing to his credit, the last known place of residence or post office address, and the fact of death, if known, of every depositor in said bank who shall not have made a deposit therein or withdrawn therefrom any part of his deposit or any part of the dividends thereon, for a period of more than twenty years next preceding; provided, however, that this section shall not apply to the deposits of persons known to the treasurer to be living, to a deposit the deposit book of which has during such period been brought into the bank to be verified or

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to have the dividends added, or to a deposit which, with the accumulations thereon, shall be less than ten dollars. Said treasurer shall also transmit a copy of such statement to the bank commissioner to be placed on file in his office for public inspection. Any treasurer neglecting to comply with the provisions of this or the preceding section shall be liable to a penalty of fifty dollars.

Sec. 45. Annual examinations by trustees. R. S. c. 52, § 47. 1923, c. 144, § 45. Two of the trustees, at least, shall once in each year, thoroughly examine the affairs of the corporation, and report under oath to the bank commissioner, and to the board of trustees, the standing of the corporation, the situation of its funds, and all other matters which the commissioner requires, in the manner and according to the form that he prescribes. And the commissioner shall seasonably give notice of the time and furnish blanks for said examination and return.

Sec. 46. No officer to receive gift, fee, or commission; penalty; borrower to pay expenses. R. S. c. 52, § 48. 1923, c. 144, § 46. 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 offense, 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 applies to any expenses of examining titles, and making conveyances upon loans made by savings banks. Parties making a loan from a savings bank shall pay all expenses incurred by reason thereof.

Sec. 47. Funds not to be used by officer; penalty. R. S. c. 52, § 49. 1923, c. 144, § 47. No officer of the corporation shall use or appropriate any of its funds for his own private purposes, under the penalties for embezzlement.

Sec. 48. Verification of depositors' books; examiner to have full access to institutions under examination; penalty for imparting information obtained by audit or verification. R. S. c. 52, § 50. 1923, c. 144, § 48. The bank commissioner, at least once in every three years, shall cause the books of the savings depositors in savings banks or institutions for savings, and in every trust and banking company, to be verified, by such methods and under such rules as he may prescribe.

All necessary expenses for the purpose of such verification, publication, or printing of the results of such verification, as may be necessary for the purpose of this chapter, shall be appropriated and paid out of the fund received by the state from the tax upon savings banks, institutions for savings, and trust companies.

The bank commissioner, deputy bank commissioner, and all examiners and employees of the department acting under the foregoing provisions, shall have full access to every part of the bank, institution for savings, or trust company under examination, and to all books, papers, vouchers, resources, and all other records and property belonging to said bank, institution for savings, or trust company, whether in its immediate possession or otherwise, for the purpose of facilitating such verification.

If any representative of the banking department designated to make such audit or verification as herein specified shall communicate or impart to any person or persons, except to said bank commissioner or as witness in court, any information obtained by said audit or verification, he shall be punished by imprisonment not exceeding one year or by fine not exceeding one thousand dollars or both.

Sec. 49. Annual examinations by bank commissioner; proceedings, and statement of condition to be published; joint examinations. R. S. c. 52, § 51. 1923, c. 144, § 49. Savings banks and institutions for savings are under the charge

of the bank commissioner for the purposes of examination. He shall visit every savings bank and institution for savings, incorporated by authority of the state, once in every year and as much oftener as he deems expedient. At such visits he shall have free access to the vaults, books, and papers, and thoroughly inspect and examine all the affairs of each of said corporations, and make such inquiries as are necessary to ascertain its condition and ability to fulfil all its engagements, and whether it has complied with the law, and its officers shall, whenever required to do so by the bank commissioner, furnish him with statements and full information relating to the condition and standing of their institution, and of all matters pertaining to its business affairs and management. He may prescribe the manner and form of keeping the books and accounts of said corporations, which, however, need not be uniform. 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 it is established, if any, otherwise in a newspaper published in the nearest place thereto. Joint examinations of state and national banking institutions occupying the same rooms shall be made at least once in each year at such times and under such conditions as the two departments may, from time to time, agree upon.

See § 85. *113 Me. 533.

Sec. 50. Voluntary liquidation; jurisdiction of court; proceedings. R. S. c. 52, § 52. 1923, c. 144, § 50. Whenever in the opinion of the bank commissioner and a majority of the trustees of any savings bank, or institution for savings, it is inexpedient, for any reason, for said bank to continue the further prosecution of its business, said trustees may join with the bank commissioner in an application to any justice of the supreme judicial court for the liquidation of the affairs of such corporation. Upon presentation of such application, such justice may issue an injunction wholly or partially restraining further payment of deposits until further order of court. If, after notice and hearing on such application, such justice is of the opinion that it is inexpedient for said bank to continue the further prosecution of its business, he may make such orders and decrees in the premises as seem proper for liquidating the affairs of said bank, the distribution of its assets and the protection of its depositors. Further proceedings on such application may be in the manner provided for the liquidation of an insolvent savings bank; or such justice may authorize the president and trustees of such bank then in office to liquidate its affairs under the direction of the court. The provisions of section fifty-seven are hereby made applicable to such applications.

Sec. 51. Commissioner may summon officers and witnesses; penalty for refusal to testify. R. S. c. 52, § 53. 1923, c. 144, § 51. The commissioner 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 thereof, and for that purpose may administer oaths; and whoever, without justifiable cause, refuses to appear and testify when thereto required, or obstructs said commissioner in the discharge of his duty, shall be fined not exceeding one thousand dollars, or imprisoned not exceeding two years.

See § 85.

Sec. 52. Commissioner may apply for injunction to restrain insolvent corporation; powers and duties of the justice in such cases; may appoint receivers, who shall report annually; duties of commissioner and attorney general. R. S. c. 52, § 54. 1923, c. 144, § 52. If, upon examination of any such corporation, the commissioner is of the opinion that it is insolvent, or that its condition is

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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 the opinion that it 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 its business 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 its property and effects, subject to such rules and orders as are from time to time prescribed by the supreme judicial court, or by any justice thereof in vacation. Such receivers or trustees shall annually, in May, and at such other times as the commissioner requires, make a report to him of the progress made in the settlement of the affairs of said corporation; and the commissioner shall seasonably give notice of the time and furnish blanks for the report. The court in its discretion may appoint the bank commissioner or deputy bank commissioner, receiver for such purpose, in which case no commission, fee, or other perquisite shall be allowed such official for his services in said capacity, but his expenses incurred in the performance of his duty as said receiver, shall be chargeable against the assets of the institution and allowed in his account as receiver. The attorney general shall render such legal services in connection with such receivership as the commissioner or deputy bank commissioner may require, without additional compensation.

See § 85. 66 Me. 244; *68 Me. 400; 93 Me. 305; *109 Me. 126; *113 Me. 533; 124 Me. 292; 125 Me. 152.

Sec. 53. After decree of sequestration, commissioners appointed; their duties and powers; payments of claims. R. S. c. 52, § 55. 1923, c. 144, § 53. 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. When it appears upon the settlement of the account of the receiver of such an institution that there is remaining in his hands funds due depositors who cannot be found and whose heirs or legal representatives are unknown, the court may order such unclaimed funds to be paid into the state treasury, together with a statement giving the names of such depositors and the amount due each, the same to be held subject for twenty years thereafter to be paid to the person or persons having established a lawful right thereto when made to appear upon proper proceedings instituted in the court ordering such disposition of such unclaimed funds; provided, however, that whenever any such unclaimed fund is an amount less than two hundred dollars, the claimant thereto may make application to any justice of the supreme judicial court, who may after identification to him satisfactory, issue an order under the seal of the supreme judicial

court directing the treasurer of state to pay said fund to the claimant therein named and said fund shall be paid as directed.

See § 85. *109 Me. 126; 125 Me. 152.

Sec. 54. Attachments dissolved, and suits discontinued; judgment recovered, to be added to claims. R. S. c. 52, § 56. 1923, c. 144, § 54. All attachments of the property of the bank shall be dissolved by the decree of sequestration, and all pending suits discontinued and the claim in suit presented to the commissioners, unless the court, or some justice thereof in vacation, on application of the plaintiff within three months from said decree, passes an order allowing the receiver to be made a party to the suit, and that the same may be prosecuted to final judgment. After a 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, authorizes 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.

See § 85.

Sec. 55. Claims, when barred. R. S. c. 52, § 57. 1923, c. 144, § 55. All claims not presented to the commissioners within the time fixed by the court, or litigated as aforesaid, are forever barred.

See § 85. 109 Me. 127.

Sec. 56. Supreme judicial court or justice thereof may reduce deposit accounts. R. S. c. 52, § 58. 1923, c. 144, § 56. Whenever a savings bank or institution for savings, is insolvent by reason of loss on, or depreciation in the value of any of its assets, without the fault of its trustees, 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 commissioner, setting forth the 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 examination of its assets and liabilities, and from other evidence, he is 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 deems 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 will not be hazardous to the public, or those having or placing funds in its custody; and the depositors shall not draw from such corporation, a larger sum than is thus fixed by the court, except as hereinafter authorized; provided, however, that its treasurer shall 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 is realized therefrom than the value estimated as aforesaid by the court, he shall, at such times as the court prescribes, render to the court a true account thereof, and thereupon the court, after due notice to all parties interested, shall declare a *pro rata* dividend of such excess among the depositors at the time of filing the petition. Such dividend may be declared by the court, whenever the court deems it for the interest of the depositors and the public, whether all, or only a portion, of such assets has been reduced to money; and any such dividend may at any time, in the discretion of the court, be declared to be a final one. No deposit shall be paid or received by such corporation after the filing of the petition until the decree of the court, reducing the deposits as herein provided. If the petition is denied, the bank commissioner shall proceed to wind up the affairs of the corporation as provided in section fifty-two.

See § 85. *68 Me. 399, 402.

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Sec. 57. Court may restrain payment to preserve assets or to protect depositors; order may be revoked or modified. R. S. c. 52, § 59. 1923, c. 144, §57. Whenever it may become necessary to preserve the assets or protect depositors in a savings bank, the supreme judicial court in equity, on application of the bank commissioner or trustees of such bank, may, after due notice, make an order restraining the bank from paying out its funds or any portion thereof, or from declaring or paying any dividends or deposits for such time as the court shall deem advisable. The court may at any time revoke or modify the original order and authorize the bank to pay dividends upon its deposits, or pay any portion of its deposits to such as may desire to withdraw the same, or make any other or further order that may be necessary to protect the depositors in such institution. Nothing in this section shall be construed to take away the rights of the parties in interest to proceed under the provisions of sections fifty-two and fifty-six of this chapter.

Sec. 58. Commissioner to make annual report; distribution. R. S. c. 52, § 60. 1923, c. 144, § 58. The commissioner shall, annually, 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.

Sec. 59. Commissioner to report violations of law; penalty for violations not otherwise prescribed. R. S. c. 52, § 61. 1923, c. 144, § 59. If, in the opinion of the commissioner, any savings bank or its officers or trustees have persistently violated any provision of this chapter, he shall forthwith report the same, with such remarks as he deems expedient, to the attorney general, who shall forthwith institute a prosecution therefor in behalf of the state. The penalty for such violation, unless otherwise prescribed, is not less than one hundred, nor more than five hundred dollars.

Sec. 60. Powers, privileges, duties, and restrictions, conferred by charters, are modified so as to conform to this chapter. R. S. c. 52, § 62. 1923, c. 144, § 60. The powers, privileges, duties, and restrictions conferred and imposed upon any savings corporation, by whatever name known, in its charter or act of incorporation, are so far abridged, enlarged, or modified, that every such charter or act shall conform to this chapter; and every such corporation possesses the powers, rights, and privileges, and is subject to the duties, restrictions, and liabilities herein conferred and imposed, anything in their respective charters or acts of incorporation to the contrary notwithstanding.

Trust and Banking Companies.

Sec. 61. Organization of trust companies; their powers. R. S. c. 52, § 63. 1923, c. 144, § 61. Five or more persons, a majority of whom shall be residents of the state, who associate themselves by an agreement in writing for the purposes of forming a trust company, may, upon compliance with the provisions of sections sixty-one to seventy, both inclusive, of this chapter, become a corporation, subject to all the duties, restrictions, and liabilities set forth in all general laws now or hereafter in force relating to such corporations, with power; first, to receive on deposit, money, coin, bank notes, evidences of debt, accounts of individuals, companies, corporations, municipalities, and states, allowing interest thereon, if agreed, or as the by-laws of said corporation may provide; second, to borrow money, to loan money on credits, or real estate, or personal security, and to negotiate loans and sales for others; third, to own and maintain safe

deposit vaults, with boxes, safes, and other facilities therein, to be rented to other parties for the safe-keeping of moneys, securities, stocks, jewelry, plate, valuable papers, and documents, and other property susceptible of being deposited therein, and may receive on deposit for safe-keeping property of any kind entrusted to it for that purpose; fourth, to hold and enjoy all such estate, real, personal, and mixed, as may be obtained by the investment of its capital stock or any other moneys and funds that may come into its possession in the course of its business and dealings, and the same sell, grant, and dispose of; fifth, to act as agent for issuing, registering, and countersigning certificates, bonds, stocks, and all other evidences of debt or ownership in property; sixth, to hold by grant, assignment, transfer, devise, or bequest, any real or personal property, or trusts duly created, and to execute trusts of every description; seventh, to act as assignee, receiver, executor, administrator, conservator, or guardian; provided, however, that any such appointment as guardian shall apply to the estate of the ward only and not to the person; eighth, subject to such restrictions as may be imposed by the bank commissioner, to accept for payment at a future date drafts and bills of exchange drawn upon it, and to issue letters of credit authorizing holders thereof to draw drafts upon it, or its correspondents, at sight or on time; provided, that such acceptances or drafts be based upon actual values, but no trust company shall accept such bills or drafts to an aggregate amount exceeding at any one time one-half of its paid-up capital and surplus, except with the approval of the bank commissioner, and in no case to an aggregate amount in excess of its capital and surplus; ninth, to do in general all the business that may lawfully be done by trust and banking companies. No surety shall be necessary upon the bond of the corporation in its capacity as trustee, executor, administrator, conservator, guardian, assignee, or receiver, or in any other capacity, unless the court or officer approving such bond shall require it.

See c. 55, § 82; c. 76, § 11; c. 83, § 30.

Sec. 62. Authority to engage in business of issuing surety bonds. 1923, c. 144, § 62. No trust company shall engage in the business of acting as surety on official bonds or bonds for the performance of other obligations, or guaranteeing the fidelity of persons in positions of trust, private or public, and at the same time engage in the business of receiving on deposit money, coin, bank notes, evidences of debt, accounts of individuals, companies, corporations, municipalities, or states, subject to check or payable on demand, other than deposits for the payment of bonds and interest thereon and for sinking funds. But nothing in this section shall be construed as enlarging any of the corporate powers of any trust company. No trust company organized under the laws of this state shall be authorized to guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations, unless it shall have a capital stock, fully paid in, of not less than two hundred and fifty thousand dollars.

Sec. 63. Agreement of organization. R. S. c. 52, § 64. 1923, c. 144, § 63. Said agreement shall set forth that the subscribers thereto associate themselves with the intention of forming a corporation, and shall specifically state:

First, the name by which the corporation shall be known.

Second, the purpose for which it is formed.

Third, the city or town, which shall be within this state, where its business is to be transacted.

Fourth, the amount of its capital stock, and the number of shares into which the same is to be divided.

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Each associate shall subscribe to the articles his name, residence, postoffice address, and the number of shares of stock which he agrees to take.

Sec. 64. Notice of intention to organize. R. S. c. 52, § 65. 1923, c. 144, § 64. A notice of the intention of the subscribers to form such a trust company shall be given to the bank commissioner. A notice in such form as said commissioner shall approve shall be published at least once a week, for three successive weeks, in one or more newspapers designated by said commissioner and published in the county in which it is proposed to establish the company. Such notice shall specify the names of the proposed incorporators, the name of the corporation, and the location of the same, as set forth in the above mentioned agreement of association. Within thirty days after the first publication of said notice the subscribers to said agreement shall apply to said commissioner for a certificate that public convenience and advantage will be promoted by the establishment of such trust company. If the commissioner refuses to issue such certificate, no further proceedings shall be had, but the application may be renewed after one year from the date of such refusal, without further notice or publication unless the commissioner shall order the same.

Sec. 65. First meeting of subscribers, how called; notice; election of officers and adoption of by-laws. R. S. c. 52, § 66. 1923, c. 144, § 65. The first meeting of the subscribers to the agreement of association shall be called by a notice

Each associate shall subscribe to the articles his name, residence, postoffice address, and the number of shares of stock which he agrees to take. signed either by that subscriber to the agreement who is designated therein for the purpose, or by a majority of the subscribers; and such notice shall state the time, place and purposes of the meeting. A copy of the notice shall, seven days at least before the day appointed for the meeting, be given to each subscriber or left at his residence or usual place of business, or deposited in the post-office, postage prepaid, and addressed to him at his residence or usual place of business, and another copy thereof and an affidavit of one of the signers that the notice has been duly served shall be recorded with the records of the corporation. If all the incorporators shall, in writing, endorsed upon the agreement of association, waive such notice and fix the time and place of the meeting, no notice shall be required. The subscribers to the agreement of association shall hold the franchise until the organization has been completed. At such first meeting, or at any adjournment thereof, the incorporators shall organize by the choice by ballot of a temporary clerk, by the adoption of by-laws and by the election in such manner as the by-laws may determine, of directors, a president, a clerk, and such other officers as the by-laws may prescribe. All the officers so elected shall be sworn to the faithful performance of their duties. The temporary clerk shall make and attest a record of the proceedings until the clerk has been chosen and sworn, including a record of such choice and qualification.

Sec. 66. Articles of agreement; to be submitted to bank commissioner and attorney general, and filed in office of secretary of state; certificate issued; has force and effect of special charter; evidence of existence of corporation. R. S. c. 52, § 67. 1923, c. 144, § 66. The president, and a majority of the directors who are elected at such first meeting, shall make, sign and make oath to, in duplicate, articles setting forth:

a—A true copy of the agreement of association, the names of the subscribers thereto, and the name, residence and post-office address of each of the officers of the company;

b—The date of the first meeting and the successive adjournments thereof, if any.

One of such certificates shall be submitted to the bank commissioner and the other, together with the records of the proposed corporation, to the attorney

general, who shall examine the same, and who may require such amendment thereof or such additional information as he may consider necessary. If he finds that the articles conform to the provisions of the preceding sections relative to the organization of the corporation and that the provisions of section sixty-four have been complied with, he shall so certify and endorse his approval thereon. Thereupon the articles shall be filed in the office of the secretary of state, who shall cause the same, with the endorsement thereon, to be recorded, and shall thereupon issue a certificate of incorporation in the following form:

STATE OF MAINE

Be it known that whereas (the names of the subscribers to the agreement of association) have associated themselves with the intention of forming a corporation under the name of (the name of the corporation), for the purpose (the purpose declared in the agreement of association), with a capital stock of (the amount fixed in the agreement of association), and have complied with the provisions of the statutes of this state in such case made and provided, as appears from the articles of organization of said corporation, duly approved by the attorney general, and recorded in this office; now, therefore, I (the name of the secretary), secretary of the State of Maine, do hereby certify that said (the names of the subscribers to the agreement of association), their associates and successors, are legally organized and established as, and are hereby made, 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 great seal of the State of Maine hereunto affixed, this day of in the year (the date of the filing of the articles of organization).

The secretary shall sign the certificate of incorporation and cause the great seal of the state to be thereto affixed, and such certificate shall have the force and effect of a special charter. The existence of every corporation which is not created by special law shall begin upon the filing of the articles of organization in the office of the secretary of state. The secretary of state shall also cause a record of the certificate of incorporation to be made, and such certificate, or such record, or a certified copy thereof, shall be conclusive evidence of the existence of such corporation.

Sec. 67. Issue of shares; list of stockholders; examinations by bank commissioner. R. S. c. 52, § 68. 1923, c. 144, § 67. Such corporation shall not issue any shares of stock until the par value of such shares shall have been actually paid in in cash. When the whole capital stock has been issued, a complete list of the stockholders, with the name, residence, and post-office address of each, and the number of shares held by each, shall be filed with the bank commissioner, which list shall be verified by the president and the treasurer of the corporation. Upon receipt of such statement said commissioner shall cause an examination to be made, and if, after such examination, it appears that the whole capital stock has been paid in in cash, and that all requirements of law have been complied with, said commissioner shall issue a certificate authorizing such corporation to begin the transaction of business. It shall be unlawful for any such corporation to begin the transaction of business until such a certificate has been granted.

Sec. 68. One-third of proposed capital stock to be subscribed for. R. S. c. 52, § 69. 1923, c. 144, § 68. The written articles of association mentioned in

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section sixty-one shall not be regarded as sufficient unless they show that at least one-third of the proposed amount of capital stock has been subscribed for, and when filed with the bank commissioner they shall be accompanied by satisfactory evidence that the sum of fifty dollars has been paid to the treasurer of state to be credited to an account for expense of organizing trust companies, so much thereof to be paid out for expenses of the several departments as the governor and council shall find to have been actually incurred.

See c. 120.

Sec. 69. Minimum amount of capital stock authorized to begin business; par value of shares. R. S. c. 52, § 70. 1923, c. 144, § 69. The minimum amount of paid-in capital stock on which a trust company may be authorized to begin business shall be twenty-five thousand dollars for a town or city of not more than five thousand inhabitants, fifty thousand dollars for a town or city having from five thousand to ten thousand inhabitants, seventy-five thousand dollars for a town or city having from ten thousand to twenty thousand inhabitants, one hundred thousand dollars for a town or city having from twenty thousand to thirty thousand inhabitants, and one hundred and fifty thousand dollars for a town or city of more than thirty thousand inhabitants. The bank commissioner, in ascertaining the number of inhabitants of such town or city for the purpose of determining the sufficiency of the capital stock, may require such proof in addition to the last preceding United States census as he may deem necessary; but no charter once granted shall ever be deemed void for any error in computing the population. The par value of the shares of stock shall be one hundred dollars each.

Sec. 70. Forfeiture of charter. R. S. c. 52, § 71. 1923, c. 144, § 70. Every such company shall forfeit its charter unless it shall actually commence to do business as a trust company within one year from the date thereof.

Sec. 71. May increase capital stock. R. S. c. 52, § 72. 1923, c. 144, § 71. Any company organized under sections sixty-one to seventy, both inclusive, or any company organized under special act of the legislature, may increase its capital stock from time to time to an amount not exceeding in the aggregate one million dollars, at any stockholders' meeting at which a majority of shares issued and outstanding is represented, notice of the intention so to do having been given in the call therefor. Provided, however, that before actually issuing such capital stock a certified copy of the vote authorizing the same shall be filed with the bank commissioner within ten days after its passage, and thereupon he shall issue his approval or disapproval of the action so taken and shall thereupon issue a certificate allowing such increase, a copy of which shall be filed in the office of the secretary of state.

Sec. 72. Board of directors; executive committees; vacancies among directors; election of president, clerk, and treasurer; penalty for false return; bonds of officials. R. S. c. 52, § 73. 1923, c. 144, § 72. All the corporate powers of any such company shall be exercised by a board of not less than five directors, two-thirds of whom shall be residents of this state, whose number and term of office shall be determined, and who shall be elected by a vote of the stockholders at the first meeting held by the incorporators and at each annual meeting thereafter. Directors shall hold a regular meeting at least once each month. The stockholders at any annual meeting may elect from the full board of directors an executive committee of not less than five members, two-thirds of whom shall be residents of this state, and delegate to such committee the powers of the directors in regard to the ordinary operations of the business of the company; such powers to be exercised by such committee at all times when said board of

directors are not in session, subject always, however, to any specific vote of said board of directors. All such committees shall keep full minutes of all business transacted by them and shall make such reports of their transactions at each monthly meeting of the board as said board or the bank commissioner may require. The directors shall be annually sworn to the proper discharge of their duties, and they shall hold office until others are elected and qualified in their stead. If any vacancy occurs in the board of directors or executive committee through death, resignation, or otherwise, the remaining directors may elect a person to fill the vacancy until the next annual meeting of the corporation. The oath of office of any director shall be taken within thirty days of his election, or his office shall become vacant. The clerk of such company shall, within ten days, notify such directors of their election and within thirty days shall publish the list of all persons who have taken the oath of office as directors. The removal of any director from this state shall immediately vacate his office if such removal leaves less than two-thirds of the membership resident in the state. The board of directors shall elect a president from its number, a clerk who shall be sworn to the faithful performance of his duties, a treasurer and such other officers as they may deem necessary. Any officer or employee of any trust company who shall wilfully or knowingly make a false return to the bank commissioner, in response to any call for information issued by said commissioner, or by the deputy bank commissioner, or upon making or filing of any regular or special report, shall be subject to a penalty of a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. The president, treasurer, assistant treasurer, and all other officials and employees having access to moneys or securities shall be bonded as in the case of similar officials in savings banks, and the provisions of section nineteen, so far as applicable, shall apply to the bonds of trust company officials and employees.

Sec. 73. Duties of board of directors and executive committee; to keep a record of loans; to submit lists of demand obligations. R. S. c. 52, § 74. 1923, c. 144, § 73. The directors or executive committee shall keep or cause to be kept in a book or books appropriate therefor, a record of all loans and investments of every description made by said company, substantially in the order of time when such loans or investments are made. Such record shall show that such loans or investments have been made with the approval of the directors or executive committee of said company and shall indicate such particulars respecting such loans and investments as the bank commissioner shall direct. Whenever requested, such record shall be submitted to the bank commissioner or to any meeting of the directors or stockholders. Such loans and investments shall be classified in said book or books of record as the bank commissioner shall direct. The treasurer or other officer having charge of such loans shall submit to the directors or executive committee at intervals of not more than six months a full and complete list of all outstanding demand obligations owed to the company.

Sec. 74. Qualification of director. R. S. c. 52, § 75. 1923, c. 144, § 74. No person shall be eligible to the position of a director of any such company who is not the actual owner of ten shares of stock, free from encumbrance.

Sec. 75. Trust assets. R. S. c. 52, § 76. 1923, c. 144, § 75. All securities, money, and property received by any such company to be held in trust shall be kept separate and apart from the other assets of the company, in a trust department to be established and maintained by such company; the assets belonging to each trust being listed and kept separate from those belonging to any other

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trust. A proper record of all matters relating to each such trust shall be separately kept in said trust department and shall indicate such particulars respecting each such trust as the bank commissioner shall direct. Provided, however, that nothing herein contained shall be construed to prohibit any such company from depositing, subject to proper rates of interest, in its commercial or savings department, in an account specifically stating the trust to which the same belongs, any cash income or cash principal received and held by it pending distribution or permanent investment in accordance with the terms of the trust under which the same is held; or such cash balances may be included in an aggregate deposit including like balances for other trusts, the books of the trust department showing the specific interest of each trust in such general deposit. The trust assets held by any such company shall not be subject to any other liabilities of said company.

Sec. 76. Administrators, etc., may deposit. R. S. c. 52, § 77. 1923, c. 144, § 76. An administrator, executor, assignee, guardian, conservator, receiver, or trustee, any court of law or equity, including courts of probate and insolvency, officers and treasurers of towns, cities, counties, and savings banks of the state, may deposit any moneys, bonds, stocks, evidences of debt or of ownership in property, or any personal property, with said corporation, and any of said courts may direct any person deriving authority therefrom to so deposit the same.

Sec. 77. Regulation of loans. R. S. c. 52, § 78. 1923, c. 144, § 77. No trust company shall loan to any person, firm, business syndicate, or corporation, an amount or amounts, at any time outstanding in excess of ten per cent of its total capital, unimpaired surplus and net undivided profits, except on approval of a majority of its entire board of directors or executive committee, unless secured by collateral which shall be of value equal to the excess of said loans above said ten per cent, and the total amount of loans to any person, firm, business syndicate or corporation, shall at no time exceed twenty-five per cent of said total capital, unimpaired surplus and net undivided profits; provided, that in determining said amount every person, firm, syndicate, or corporation appearing on any loan as endorser, guarantor, or surety, shall be regarded as an original promissor. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed. Provided, however, that any such company having on the first day of August, in the year nineteen hundred and nineteen, loans outstanding in excess of the aforesaid restrictions may permit the same to be renewed from time to time as they mature, for periods not exceeding six months each, if an amount equal to not less than ten per cent of every loan so maturing shall have first been paid in in cash, and if an equivalent amount shall be paid in at the end of every six months on all demand loans in such aggregate. In all cases where loans in excess of said ten per cent are granted, without collateral, the records of the company shall show who voted in favor thereof, and said records and those required by section seventy-eight shall constitute prima facie evidence of the truth of all facts stated therein in prosecutions and suits to enforce the several provisions and penalties enumerated in section seventy-nine.

Sec. 78. Loans to officers; approval of loan to be recorded; records to show vote of directors; credit expires in six months. R. S. c. 52, § 79. 1923, c. 144, § 78. No trust company shall make any loan to its directors, officers, agents, or other persons in its employ, or on which any such director, officer, agent, or employee is an endorser, guarantor, or surety, or to any firm or business syndicate of which such director, officer, agent, or employee is a member, or to any

person or on the endorsement or guaranty of any person who is a partner of, or member of a business syndicate with, such director, officer, agent, or employee, or to any corporation of which any such director, officer, agent, or employee is a director, officer, superintendent, or manager, until the proposition to make such loan shall have been submitted by the person desiring the same to the board of directors of such company, or to the executive committee thereof, if any, and accepted and approved by a majority of the entire membership of such board or committee; provided, however, that no director of such company who is interested in said loan in any of the above capacities, or who is connected or associated with the borrower in any of the above ways, shall be regarded as voting in the affirmative on such loan. For the purposes of this section each renewal shall be considered as an original loan. Such approval, if the loan is made, shall be spread upon the records of the company; and this record shall, in every instance, give the names of the directors authorizing the loans. Nothing in this section or section seventy-seven shall make it unlawful for a trust company to give any person, firm, syndicate, or corporation a line of credit to an amount not exceeding twenty-five per cent of its total capital, unimpaired surplus and net undivided profits, subject to the several restrictions as to percentage of entire board and right of interested persons to vote on same contained in said sections. The records of the company shall show how every director voted on the same, and when such line of credit is given, the treasurer or other authorized officer may pay out loans in accordance therewith without further approval. A line of credit so given shall expire in six months unless renewed in the same manner in which it is originally given. No loan shall hereafter be made to the treasurer, assistant treasurer, or any employee of the company upon the security of corporation stocks as collateral; provided, however, that this provision shall not apply to the renewal of existing loans.

Sec. 79. Directors and officers personally responsible and guilty of misdemeanor, for violation of sections 77-78; sued by attorney general. R. S. c. 52, § 80. 1923, c. 144, § 79. Every director, officer, agent, and employee of such company, who authorizes, or assists in procuring, granting, or causing the granting of, a loan in violation of section seventy-seven of this chapter, or pays, or wilfully permits the payment of, any funds of the company on such loan, and every director of a company who votes on a loan in violation of any of the provisions of section seventy-eight of this chapter, and every director, officer, agent, or employee who wilfully and knowingly permits or causes the same to be done, shall be personally responsible for the payment thereof, and shall be guilty of a misdemeanor. All loans granted in violation of either of said sections shall be due and payable immediately and without demand, whether they appear on their face to be time loans or otherwise. When the bank commissioner shall find any loans outstanding in violation of either of said sections, he shall notify the president or treasurer of the company to cause the same to be paid forthwith. And if they are not paid within thirty days or such further time as said bank commissioner shall determine, he shall report the facts to the attorney general, who shall commence suit in the name and for the benefit of such company for the collection of the same. The attorney general may employ special counsel to prosecute said suit, and said company shall pay all expenses thereof, to be recovered in an action of debt in the name of the state.

Sec. 80. Cash reserve. R. S. c. 52, § 81. 1923, c. 144, § 80. Every trust and banking company having authority to receive money on deposit shall at all times have on hand in the lawful money or national bank notes of the United States, as a cash reserve, an amount equal to at least fifteen per cent of the

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aggregate amount of its deposits which are subject to withdrawal upon demand or within ten days; provided, that in lieu of such cash reserve, two-thirds of said fifteen per cent may consist of balances payable on demand due from any national bank or trust company created under the laws of this state, or from any trust company located in any of the other New England states or New York, and approved by the bank commissioner in writing; and one-third of said fifteen per cent may consist of the bonds of the United States or the State of Maine. Whenever said reserve shall be below said percentage of such deposits, such corporation shall not further diminish the amount of its legal reserve by making any new loans until the required proportion between the aggregate amount of such deposits and its cash reserve shall be restored. Provided, further, that any trust company may become a stockholder in a federal reserve bank within the federal Reserve District where said trust company is situated, and while such trust company continues as a member bank under the provisions of the United States "Federal Reserve Act," approved December twenty-third, nineteen hundred thirteen, or any acts in amendment thereof, shall be subject to the provisions of said "Federal Reserve Act" and any amendments thereof relative to bank reserves in substitution for the requirements of this section. Every such trust company may have and exercise any and all of the corporate powers and privileges which may be exercised by member banks under provisions of the "Federal Reserve Act" or any acts in amendment thereof or in addition thereto. All provisions of charters in conflict with this section are void.

Sec. 81. Surplus which shall be kept to secure against loss. R. S. c. 52, § 82. 1923, c. 144, § 81. Every trust and banking company shall set apart as a surplus not less than ten per cent of its net earnings in each and every year until such surplus, together with any unimpaired surplus paid in, shall amount to one-half of the capital stock of the company. The said surplus shall be kept to secure against losses and contingencies, and whenever the same becomes impaired it shall be reimbursed in the manner provided for its accumulation.

Sec. 82. Not to make loans on shares of its capital stock. R. S. c. 52, § 83. 1923, c. 144, § 82. Such corporations shall not make loans or discounts on the security of the shares of their own capital stock, nor be the purchasers or holders of any such shares unless necessary to prevent loss upon a debt previously contracted in good faith, and all stock so acquired shall, within one year after its acquisition, be disposed of at public or private sale; provided, however, that the time for such disposition may be extended by the bank commissioner, for good cause shown upon application to him in writing.

Sec. 83. Borrowing capacity limited. 1923, c. 144, § 83. No trust company not a member of the Federal Reserve System shall be at any time indebted for borrowed money to an amount in excess of its capital, surplus and net undivided profits, except that by vote of a majority of its entire board of directors or executive committee, setting forth the reasons therefor, it may borrow to meet withdrawals of depositors or to prevent loss by sales of assets. Copies of all votes authorizing such excess borrowings shall be promptly forwarded by the clerk to the bank commissioner. Rediscounts, other than those of drafts or bills of exchange secured by bills of lading of agricultural products and payable at sight or upon arrival, shall be considered as borrowed money for the purpose of this section. Nothing herein contained shall apply to any indebtedness incurred prior to January first, nineteen hundred twenty-four; or to any necessary renewal thereof.

Sec. 84. Report to bank commissioner; penalty for neglect. R. S. c. 52, § 85. 1923, c. 144, § 84. Every trust and banking company shall make such

report of its condition from time to time as the bank commissioner shall require, and shall cause the same to be published as he may direct. Each return shall be rendered within fifteen days after the day designated in the blank form furnished for the purpose. Any treasurer who shall wilfully or negligently fail to comply with the provisions hereof shall be subject to a fine not exceeding fifty dollars.

Sec. 85. Authority of bank commissioner over trust and banking companies; to make annual report. R. S. c. 52, § 86. 1923, c. 144, § 85. The bank commissioner shall at all times have the same authority over all trust and banking companies incorporated under the laws of this state that he now has over savings banks or savings institutions, and shall perform, in reference to such companies, the same duties as are required of him in reference to savings banks. He shall, annually, make a report to the governor and council of the general conduct and condition of each of said companies, making such suggestions as he deems expedient or the public interest requires. Such report shall be printed and laid before the legislature at its next session and one copy sent to each trust and banking company in the state. The provisions of sections forty-nine, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five and fifty-six of this chapter shall apply to trust and banking companies, excepting so much as relates to the distribution of assets after a decree of sequestration, as provided in section fifty-three. Such distribution of assets of trust and banking companies shall be made under order of the court.

125 Me. 152.

Sec. 86. Affairs of the company to be examined annually. R. S. c. 52, § 87. 1923, c. 144, § 86. Two of the directors, at least, shall once in each year thoroughly examine the affairs of the company, settle the treasurer's account, and report under oath to the bank commissioner the standing of the company, the situation of its funds, and all other matters which the commissioner requires, in the manner and according to the form that he prescribes, and publish an abstract thereof, if required. The commissioner shall seasonably give notice of the time and furnish blanks for said examination and report.

Sec. 87. May adopt by-laws. R. S. c. 52, § 88. 1923, c. 144, § 87. Any trust company organized under this chapter may adopt all necessary by-laws, not inconsistent with the general laws of the state, for the management of its affairs. The clerk shall file with the bank commissioner a copy of such by-laws and all amendments thereto. All by-laws and amendments hereafter adopted shall be submitted to the bank commissioner for his approval as to their legality, and shall not take effect until such approval is given. In case the bank commissioner shall refuse or unreasonably delay to give such approval, the directors of the company may submit such by-laws or amendments to a justice of the supreme judicial court for his approval, and, if he shall approve them as legal, they shall thereupon take effect.

See § 65.

Sec. 88. Establishment and closing of branches. R. S. c. 52, § 89. 1923, c. 144, § 88. 1927, c. 142. No trust company now or hereafter organized shall establish a branch or agency until it shall have received a warrant so to do from the bank commissioner, who shall issue such warrant only when satisfied that public convenience and advantage will be promoted by the establishment of such branch or agency, and that the unimpaired capital stock of the parent institution is sufficient to comply with the conditions of section sixty-nine, reckoning the aggregate population of its home city or town and of all cities and towns in which it is authorized by its charter to establish branches or agencies, including the one under consideration. The commissioner may require such

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notice on an application for a branch or agency as he deems proper. No trust company shall be permitted to establish a branch or agency except in its own or an adjoining county. If granted, the bank commissioner shall issue his warrant in duplicate, one copy to be delivered to the trust company, and the other to the secretary of state for record. The company shall within ten days after opening said branch or agency, file a certificate thereof, signed by its president and treasurer, with the bank commissioner. The right to open a branch or agency shall lapse in one year from the date of filing the commissioner's warrant with the secretary of state, unless the same shall have been opened and business actually begun in good faith. No application for permission to open such branch or agency shall be acted upon until the petitioning company shall have paid to the treasurer of state the sum of fifty dollars for the benefit of the state, to be credited and used as provided in section sixty-eight.

Any such branch or agency may be closed or discontinued by vote of the stockholders of the company, with consent of the bank commissioner, after such notice and hearing, if any, as in his judgment the public interest may require.

Sec. 89. Security for savings deposits; assets to be set apart equal to amount of deposits. R. S. c. 52, § 90. 1923, c. 144, § 89. Every trust company soliciting or receiving savings deposits which may be withdrawn only on presentation of the passbook or other similar form of receipt which permits successive deposits or withdrawals to be entered thereon; or which at the option of the trust company may be withdrawn only at the expiration of a stated period after notice of intention to withdraw has been given; or in any other way which might lead the public to believe that such deposits are received or invested in the same manner as deposits in savings banks; or which advertises or holds itself out as maintaining a savings department, or uses the term "savings" in connection with any part of its business, shall segregate and set apart and at all times keep on hand so segregated and set apart, assets at least equal to the aggregate amount of such deposits, and in the case of any trust company which also acts as surety upon any bonds or other obligations the amount of its assets so segregated and set apart shall be at least fifteen per cent in excess of the aggregate amount of such deposits. The bank commissioner may require all such assets as appear to him to be carried in excess of their true value to be charged down to such value.

*123 Me. 274; 124 Me. 289.

Sec. 90. Segregated assets held as security for deposits. R. S. c. 52, § 91. 1923, c. 144, § 90. Such assets so segregated and set apart shall be held in trust for the security and payment of such deposits, and shall not be mingled with the other assets of the company, or be liable for the debts or other obligations thereof until after such deposits shall have been paid in full. All other assets of the company, including the liability of the stockholders, shall be held equally and ratably for the payment of all claims, including any balance due such savings depositors after applying to their payment the assets so segregated and set apart.

*123 Me. 274, 283.

Sec. 91. Assets, how held and recorded. R. S. c. 52, § 92. 1923, c. 144, § 91. Such segregated assets shall be so held and recorded as to identify them as the assets held for the security of such deposits. All notes, certificates of stock, bonds, and other securities representing such assets shall be plainly stamped "Savings Department"; provided, however, that in lieu thereof it shall be lawful to record in the investment book a description of assets so held sufficient to identify them.

123 Me. 274, 283.

Sec. 92. Notice of withdrawal of deposits. R. S. c. 52, § 93. 1923, c. 144,

§ 92. Such trust company may at any time require such savings depositors to give a notice not exceeding ninety days of their intention to withdraw more than fifty dollars at any one time or in any one month.

Sec. 93. Individual responsibility of stockholders. R. S. c. 52, § 94. 1923, c. 144, § 93. The stockholders in a trust and banking company shall be individually responsible, equally and ratably, and not one for the other, for all contracts, debts, and engagements of such corporation, to a sum equal to the amount of the par value of the shares owned by each in addition to the amount invested in said shares. Whenever in liquidating the affairs of such corporation it appears that its assets are not sufficient to pay its indebtedness the receiver thereof, under proper orders of the court, shall proceed to enforce such individual liability of stockholders in any appropriate action at law or in equity, in his own name or in the name of the corporation for the benefit of the creditors. Stockholders who shall have transferred their shares or registered the transfer thereof within thirty days next before the date of the failure of such bank to meet its obligations, or with knowledge of such impending failure, shall be liable to the same extent as if they had made no such transfer, to the extent that the subsequent transferee fails to meet such liabilities; but this provision shall not be construed to affect in any way any recovery which such stockholder might otherwise have against those in whose names shares are registered at the time of such failure.

96 Me. 447; *111 Me. 206.

Sec. 94. Proceedings when capital stock becomes impaired. R. S. c. 52, § 95. 1923, c. 144, § 94. When the capital stock of a trust company shall become impaired by losses or otherwise, the bank commissioner may ascertain and determine the facts and give notice in writing to such company to make good the deficiency so appearing, within such time as he may order. The directors of such trust company, unless they shall by proper vote otherwise determine, shall forthwith levy an assessment upon the stock thereof sufficient to make good such deficiency and shall forthwith notify each stockholder of such requisition by giving him in hand or mailing to him at his last known address, postage prepaid, a written or printed notice which shall state the amount of assessment to be paid by him and the time within which it shall be paid, which time shall not be less than sixty days from the date of such notice. Such assessment shall be due and payable by each stockholder within the time specified in said notice and if any stockholder shall fail to pay the assessment specified in said notice within the time fixed therein as aforesaid, the directors of said trust company shall have the right to sell at public auction to the highest bidder the stock of each delinquent stockholder, after giving previous notice of such sale by publication thereof at least once a week for three successive weeks in some newspaper of general circulation in the county where the principal place of business of said trust company is located. A copy of such notice of sale shall also be given in hand to such delinquent stockholder or mailed to him at his last known address, postage prepaid, at least ten days before the date fixed for said sale; or such stock may be sold at private sale and without such notice; provided, however, that before making such private sale thereof, an offer in writing to purchase said stock shall first be obtained and a copy thereof served upon the owner of record of the stock sought to be sold, either personally by giving him in hand a copy of such offer or mailing the same to him at his last known address, postage prepaid, and if after service of such offer, such owner shall still refuse or neglect to pay such assessment within two weeks from the time of the service of such offer, the said directors may accept such offer and sell such stock to the person making such offer or to any other person or persons making

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a larger offer than the amount named in the offer submitted to the stockholder; but such stock shall in no event be sold for a smaller sum than the valuation put on it by the bank commissioner in his determination and requisition as to said assessment, nor for less than the amount of said assessment so called for and the expense of the sale. Out of the avails of the stock so sold, the directors shall pay the amount of assessment levied thereon, and the necessary costs of sale and the balance, if any, shall be paid to the person or persons whose stock has been thus sold. A sale of stock as herein provided shall effect an absolute cancellation of the outstanding certificate or certificates evidencing the stock so sold and shall make the same null and void and a new certificate shall be issued by the company to the purchaser thereof. Any stockholder aggrieved by any action of the bank commissioner or the directors of such company under the foregoing provisions may, within ten days after receiving notice thereof, apply by bill in equity or other appropriate proceedings to a justice of the supreme judicial court whose decision, after due hearing, shall be final in the matters complained of. In the event that the directors of any trust company upon notification by the bank commissioner as hereinafter provided shall not vote within ten days after receipt of said notification to make an assessment upon the stock under the foregoing provisions, the bank commissioner or the directors of such institution, may file a complaint in the supreme judicial court in equity, setting forth the fact that such capital stock is impaired and asking said court to order an assessment upon the capital stock aforesaid sufficient to meet the impairment and make the corporation solvent. After giving due notice and hearing to all parties interested, the court shall, if it finds the capital stock to be impaired as aforesaid, order an assessment to be made upon such stock. Such assessment, when made, shall be due and payable by each stockholder to the treasurer of said company on order of said court within sixty days from the time such order is made. If any stockholder or stockholders of said company shall neglect or refuse, after due notice, to pay the assessment ordered as aforesaid within the time specified, a sufficient amount of the capital stock of such stockholder or stockholders may, after due notice given, be sold under the direction of the court to pay such assessment and the costs of sale. After paying the assessment and costs aforesaid from the proceeds of such sale, the balance, if any, shall be returned to the delinquent stockholder or stockholders. If no bidder can be found, who will pay for such stock the amount of the assessment due thereon and the costs of the advertisement and sale, the amount previously paid by such stockholder or stockholders, and said stock, shall be forfeited to the company and shall be sold by said company as the directors shall order, within six months from the time of said forfeiture.

Sec. 95. General rights of creditors not impaired. R. S. c. 52, § 96. 1923, c. 144, § 95. Nothing in the two preceding sections shall be construed to take away the general rights of creditors to enforce the liability of stockholders in such corporation in any manner provided by statute, or the right to proceed against the corporation under the provisions of section eighty-five.

Sec. 96. Rights and powers under general law possessed by companies chartered by special act; certain rights and powers possessed by charter not revoked. R. S. c. 52, § 97. 1923, c. 144, § 96. Any trust company chartered by special act of the legislature shall have all the rights and powers and shall be subject to all the provisions, regulations and restrictions from time to time conferred upon trust companies, or established with reference thereto, by general law; except, however, that neither the enumeration of powers in section sixty-one nor the provisions governing the number and election of directors or members

of the executive committee in section seventy-two, nor the requirements as to eligibility of directors in section seventy-four, shall be construed as revoking any rights or powers possessed by such trust company by virtue of the express provisions of its charter.

Loan and Building Associations.

Sec. 97. Organization; powers. R. S. c. 52, § 98. 1923, c. 144, § 97. Loan and building associations may be organized in the manner provided herein for the organization of savings banks; and upon the 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 constituted a body corporate and politic, and such body may adopt 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. The secretary shall file with the bank commissioner a copy of such by-laws and all amendments thereto. All by-laws and amendments hereafter adopted shall be submitted to the bank commissioner for his approval and shall not take effect until such approval is given. In case of refusal to give such approval the directors of the association may appeal to a justice of the supreme judicial court, whose decision shall be final.

^{104 Me. 408.}

Sec. 98. First meeting. R. S. c. 52, § 99. 1923, c. 144, § 98. The certificate of authorization issued by the bank commissioner shall provide the method of calling the first meeting of the association.

Sec. 99. Capital stock; shares may be issued in series. R. S. c. 52, § 100. 1923, c. 144, § 99. Associations may issue shares upon either the serial or permanent plan, or both. Shares issued upon the permanent plan may be taken out at any time and shall have no maturity. Shares issued upon the serial plan shall be of the ultimate value of two hundred dollars each and shall be issued in quarterly, half yearly or yearly series, but no shares of a prior series shall be issued after the opening of a new series.

Sec. 100. Minors may hold shares. R. S. c. 52, § 101. 1923, c. 144, § 100. Minors may hold shares by trustees or guardians, and the shares of each shareholder, not exceeding two, shall be exempt from attachment and execution.

Sec. 101. Officers, elections, and meetings, determined by by-laws; tenure; secretary and treasurer may be same person. R. S. c. 52, § 102. 1923, c. 144, § 101. The number, title, duties, and compensation of the officers of the association, their terms of office, the time of their election, as well as the qualifications of electors, and time of each periodical meeting of the officers and members shall be determined by the by-laws, but no member shall be entitled to more than one vote. All officers shall continue in office until their successors are duly elected, and no association shall expire from neglect on its part to elect officers at the time prescribed by the by-laws. The office of secretary and treasurer may be held by one and the same person, if any association so provides by its by-laws. All officers shall be annually sworn to the faithful performance of their duties.

Sec. 102. Secretary and treasurer to give bonds; bonds to be examined annually. R. S. c. 52, § 103. 1923, c. 144, § 102. The secretary, treasurer, and other persons holding positions of trust in loan and building associations shall give bonds to the corporation for the faithful discharge of the duties of their

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offices in such sums as the directors decide to be necessary for the safety of the funds, and such bonds shall continue to be valid from year to year so long as they are elected and hold said offices, subject to renewal whenever ordered by the bank commissioner or directors. The directors may, in lieu of said bond, insure at the expense of the association with some fidelity or guaranty company which shall be satisfactory to the commissioner for the faithful discharge of the duties of the secretary and treasurer and such other clerks as may be employed, in such sums as they may decide to be necessary for the safety of the funds in the custody of the corporation. The commissioner shall annually examine the bonds given, as aforesaid, and inquire into and certify to the sufficiency thereof, and when he deems any such bond insufficient he shall order a new bond to be given, within a time by him specified.

Sec. 103. Meetings to be held monthly; payments on shares. R. S. c. 52, § 104. 1923, c. 144, § 103. The officers shall hold stated monthly meetings. At or before each of these meetings, every member shall pay to the association, as a contribution to its capital, one dollar, as dues upon each share held by him. Payments on shares issued on the serial plan shall cease when each share shall have reached the ultimate value of two hundred dollars and the payment of dues on each series shall commence from its issue.

104 Me. 408; 121 Me. 191.

Sec. 104. Shares may be withdrawn; shareholders' accounts, how settled; unpledged shares of any series may be retired. R. S. c. 52, § 105. 1923, c. 144, § 104. Shares may be withdrawn after one month's notice of such intention, written in a book held and provided by the association for the purpose, or in such other manner as the by-laws of the association may provide. Upon such withdrawal, the shareholders' account shall be settled as follows: from the amount then standing to the credit of the shares to be withdrawn, there shall be deducted all fines, a proportionate part of any unadjusted loss, together with such proportion of the profits previously credited to the shares as the by-laws may provide, and such shareholder shall be paid the balance; provided, that at no time shall more than one-half of the funds in the treasury be applicable to the demands of withdrawing members, without the consent of the directors. The directors may, under rules made by them, retire any unpledged shares at any time after four years from the date of their issue, by enforcing the withdrawal of the same; provided, that the shareholders whose shares are to be retired shall be determined by lot, and that they shall be paid the full value of their shares less all fines and a proportionate part of any unadjusted loss.

Sec. 105. When shares reach maturity, holders to be paid value; shares subject to lien for unpaid dues. R. S. c. 52, § 106. 1923, c. 144, § 105. 1925, c. 73. When each unpledged share of a given series reaches the value of two hundred dollars, all payment of dues thereon shall cease, and the holder thereof shall be paid out of the funds of the association, two hundred dollars therefor, with interest at the rate of not less than five nor more than six per cent a year from the time of such maturity to the time of payment; provided, that at no time shall more than one-half of the funds in the treasury be applicable to the payment of such matured shares, without the consent of the directors, and that before paying matured shares, all arrears and fines shall be deducted. Every share shall be subject to a lien for the payment of any unpaid dues, fines, interest, premiums and other charges received thereon, which may be enforced in the manner hereinafter provided. Any association may permit the holders of matured shares issued on the serial plan to allow the same to remain after maturity, giving proper certificates therefor, but the amount due on matured

shares so permitted to remain may not be demanded except upon one month's notice of such intention, if required by the association.

Sec. 106. Board of directors to invest funds and fix rates of interest; members may make loans; rate of interest; investment of balances. R. S. c. 52, § 107. 1923, c. 144, § 106. The board of directors shall see to the proper investment of the funds of the association, as provided in this section. After due allowance for all necessary and proper expenses, and for the withdrawal of shares, the moneys of the association shall be loaned to the members at a rate of monthly premium to be fixed by the directors, which shall in no case exceed forty cents a share. Any member may, upon giving security satisfactory to the directors, receive a loan of two hundred dollars for each share held by him, or such fractional part of two hundred dollars as the by-laws may allow. Any association may provide in its by-laws that instead of the interest and premium, a stated rate of annual interest of not less than five, nor more than eight per cent, may be charged upon the sum desired, payable in monthly instalments. Such rate shall include the whole interest and premium to be paid upon the loan. Any balance remaining unloaned to members may be invested in such securities as are legal for the investment of deposits in savings banks, or with the approval of the bank commissioner may be loaned in whole or in part to other loan and building associations in this state. No loan shall be made on the gross premium plan.

104 Me. 408.

Sec. 107. Premiums to be received as profits, and distributed to shareholders. R. S. c. 52, § 108. 1923, c. 144, § 107. Premiums for loans shall consist of a percentage charged on the amount lent in addition to interest, and shall be deemed to be a consideration paid by the borrower for the present use and possession of the future or ultimate value of his shares, and shall, together with interest and fines, be received by the association as a profit on the capital invested in the loan, and shall be distributed to the various shares and series of said capital as hereinafter provided.

104 Me. 408.

Sec. 108. Rate of interest to be charged; cancellation of shares. R. S. c. 52, § 109. 1923, c. 144, § 108. A borrowing member, for each share borrowed upon, shall, in addition to his dues and monthly premium, if such monthly premium be charged, pay monthly interest on his loan, except as otherwise provided in the by-laws of such association under the provisions of section one hundred and six, at the rate of not less than five, nor more than six per cent a year until the loan has been repaid.

104 Me. 408.

Sec. 109. Security for loans; condition of note and mortgage; shares alone may be pledged as security; if borrower fails to offer security, loan to be forfeited. R. S. c. 52, § 110. 1923, c. 144, § 109. For every loan made, a note secured by first mortgage of real estate shall be given, accompanied by a transfer and pledge of the shares of the borrower. The shares so pledged shall be held by the association as collateral security for the performance of the conditions of the note and mortgage. Said note and mortgage shall recite the number of shares pledged, and the amount of money advanced thereon, and shall be conditioned for the payment, at the stated meetings of the corporation, of the monthly dues on said shares, and the interest and premiums upon the loan, together with all fines on payments in arrears, until said loan has been repaid; provided, that the shares, without other security, may, in the discretion of the directors, be pledged as security for loans, to an amount not exceeding their value as adjusted at the last adjustment and valuation of shares before the time

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of the loan. If the borrower neglects to offer security, satisfactory to the directors, within the time prescribed by the by-laws, his right to the loan shall be forfeited, and he shall be charged with one month's interest and one month's premium at the rate bid by him, together with all expenses, if any, incurred, and the money appropriated for such loan may be re-loaned at the next or any subsequent meeting.

104 Me. 408.

Sec. 110. Borrower may repay loan at any time; settlement of accounts, how made. R. S. c. 52, § 111. 1923, c. 144, § 110. A borrower may repay a loan at any time, upon application to the association, whereupon, on settlement of his account, he shall be charged with the full amount of the original loan, together with all monthly instalments of interest, premium and fines in arrears, and shall be given credit for the withdrawing value of his shares pledged and transferred as security, and the balance shall be received by the association in full satisfaction and discharge of said loan; provided, that all settlements made at periods intervening between stated meetings of the directors shall be made as of the date of the stated meeting next succeeding such settlement; and provided, that a borrower desiring to retain his shares and membership may, at his option, repay his loan without claiming credit for his shares, whereupon said shares shall be re-transferred to him and shall be free from any claim by reason of said cancelled loan.

Sec. 111. Members failing to pay dues, etc., to be fined; shares in arrears more than six months to be forfeited. R. S. c. 52, § 112. 1923, c. 144, § 111. Members who make default in the payment of their monthly dues, interest and premiums, shall be charged a fine not exceeding two per cent a month on each dollar in arrears. No fines shall be charged after the expiration of six months from the first lapse in any such payment, nor upon a fine in arrears. The shares of a member who continues in arrears more than six months shall, at the option of the directors, if the member fails to pay the arrears within thirty days after notice, be declared forfeited, and the withdrawing value of the shares at the time of the first default shall be ascertained, and after deducting all fines and other legal charges, the balance remaining shall be transferred to an account to be designated the forfeited share account, to the credit of the defaulting member. Said member, if not a borrower, shall be entitled, upon thirty days' notice, to receive the balance so transferred, without interest from the time of the transfer, in the order of his turn, out of the funds appropriated to the payment of withdrawals. All shares so forfeited or transferred shall cease to participate in any profits of the association accruing after the last adjustment and valuation of shares before said default.

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Sec. 112. Forfeiture of shares of borrowing members; balance of account enforced against security. R. S. c. 52, § 113. 1923, c. 144, § 112. If a borrowing member is in arrears for dues, interest, premiums, or fines for more than six months, the directors may declare the shares forfeited after one month's notice, if the arrears continue unpaid. The account of such borrowing member shall then be debited, with the arrears of interest, premiums and fines to date of forfeiture, and the shares shall be credited upon the loan at their withdrawing value. The balance of the account may, and after six months shall, be enforced against the security by any legal method, or by proceedings in equity, for sale and foreclosure, jurisdiction therefor being hereby specially given to the supreme judicial and superior courts, to be exercised upon bill or petition in a summary manner. The shares, the value whereof has been so applied in payment, shall revert to the corporation, and be held by it free from all interest, claim, or demand on the part of the borrower, or any person claiming from or under him.

Sec. 113. Unpledged shares of deceased shareholders; distribution. R. S. c. 52, § 114. 1923, c. 144, § 113. Upon the death of a shareholder, his legal representatives shall be entitled to receive the amount of his unpledged shares, to be ascertained as provided in section one hundred and four for withdrawal of shares. No fines shall be charged, or profits credited to a deceased member's account from and after his decease, unless his legal representatives assume the future payments on such shares, which they may assume under the same rights and liabilities of the deceased. Moneys 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 as money received from a policy of life insurance on the life of a deceased person.

See c. 88, § 21.

Sec. 114. Accounts, how kept, and business, how transacted. R. S. c. 52, § 115. 1923, c. 144, § 114. The general accounts of every such association shall be kept by double entry. The secretary shall at least once each month make and declare a trial balance, which shall be recorded in a book provided for that purpose, and it shall at all times be open to the inspection of the directors and shareholders of the association. All moneys received from the members shall be receipted for by persons designated by the directors in a pass book provided by the association for the use of and to be held by the member, and said pass book shall be plainly marked with the name and residence of the holder thereof, the number of shares held by him and the number or designation of the series or issue to which said shares respectively belong and the date of the issue of such series, if issued upon the serial plan. All moneys so received shall be originally entered by the proper officer in a book to be called the cash book, and the entries therein shall be so made as to show the name of the payer, the number of the shares, the number or designation of the series, or issues of the particular share, or shares so entered, together with the amount of dues, interest, premiums, and fines paid thereon, as the case may be. Each payment shall be classified and entered in a column devoted to its kind. Said cash book shall be closed on the last day of the month in which each stated meeting is held, and shall be an exhibit of the receipt of all moneys paid by shareholders during said month. All payments made by the association for any purpose whatsoever, shall be by orders, checks, or drafts to be signed by such officer or officers as the board of directors in each association may designate, and endorsed by the persons in whose favor the same are drawn. The name of the payee, the amount paid, and the purpose, object, or thing for which the payment is made, together with its date, shall be entered on the margin of said order, check, or draft. The treasurer shall dispose of and secure the safe-keeping of all moneys, securities, and property of the corporation, in the manner designated by its by-laws.

Sec. 115. Profits and losses, when and how distributed; guaranty fund. R. S. c. 52, § 116. 1923, c. 144, § 115. The profits and losses may be distributed annually, semi-annually, or quarterly, to the shares then existing, but shall be distributed at least once in each year. Profits and losses shall be distributed to the various shares existing at the time of such distribution, in proportion to their value at that time, and shall be computed upon the basis of a single share, fully paid to the date of distribution. No dividend shall be made at a rate per cent which will make the aggregate amount of said dividend greater than the actual earnings of the association, actually collected; provided, however, that a temporary deficiency in actual collections may be supplemented by taking from the guaranty fund, with the written consent of the bank commissioner, an amount sufficient to maintain the customary dividend rate. At each periodical distribution of profits, the directors shall reserve as a guaranty fund a sum not less

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than three, nor more than ten per cent of the net profits accruing since the last adjustment, until such fund amounts to five per cent of the dues capital, which fund shall thereafter be maintained and held, and said fund shall be at all times available to meet losses in the business of the association from depreciation in its securities or otherwise.

Sec. 116. May purchase real estate upon which it has a lien; sale within five years. R. S. c. 52, § 117. 1923, c. 144, § 116. Any association may purchase, at any sale, public or private, any real estate upon which it may have a mortgage, judgment, lien, or other encumbrance, or in which it may have an interest, and may sell, convey, lease, or mortgage at pleasure, the real estate so purchased, to any person or persons whatsoever. All real estate in whatever manner acquired shall be sold within five years from the acquisition of title thereto; but the bank commissioner, upon application of any association, may extend said time in which said real estate may be sold.

Sec. 117. Directors to insure all real estate. R. S. c. 52, § 118. 1923, c. 144, § 117. Directors shall cause all real estate of an insurable character held by them, absolutely or in mortgage, to be fully insured against loss by fire or lightning and the expense of such insurance in case of mortgage shall be added to the amount of the mortgage debt, to be refunded in case of payment or redemption.

Sec. 118. Examinations by bank commissioner. R. S. c. 52, § 119. 1923, c. 144, § 118. The bank commissioner shall perform, in reference to all loan and building associations, the same duties, and shall have the same powers as are required of him or given to him in reference to savings banks; and shall, annually, make a report to the governor and council of the general conduct and condition of each of the associations visited by him, making such suggestions as he deems expedient or the public interest requires. The officers of such associations shall answer truly all inquiries made, and shall make all returns required by the bank commissioner. The bank commissioner, at least once in every three years, shall cause the pass books of shareholders in loan and building associations to be verified by such methods and under such rules as he may prescribe.

93 Me. 305.

Sec. 119. Business of loan and building associations restricted. R. S. c. 52, § 120. 1923, c. 144, § 119. Except as hereinafter provided, no person, association, or corporation shall carry on the business of accumulating and loaning or investing the savings of its members or of other persons in the manner of loan and building associations, or carry on any business similar thereto within this state, unless incorporated under the laws thereof for such purpose.

118 Me. 260; 121 Me. 188.

Sec. 120. Foreign associations authorized to do business in this state; deposit of securities in trust for benefit of creditors; duty of bank commissioner to make examinations. R. S. c. 52, § 121. 1923, c. 144, § 120. The bank commissioner may authorize any such association or corporation duly established under the laws of another state to carry on such business in this state, but said association or corporation shall not transact such business in this state unless it shall first deposit with the treasurer of state, the sum of twenty-five thousand dollars and thereafter a sum equal to fifteen per cent of the deposits made in such association or corporation by citizens of the state, the amount of percentage of deposits so required to be determined from time to time by the bank commissioner; or in lieu thereof the whole or any part of said sum may consist of any of the securities in which savings banks may invest, as regulated in section twenty-seven at their par value, and the said deposit shall be held in trust by said treasurer for the protection and indemnity of the residents of the state with

whom such associations or corporations respectively have done or may transact business. Said moneys or property shall be paid out or disposed of only on the order of some court of competent jurisdiction, made on due notice to the attorney general of the state, and upon such notice to the creditors and shareholders of such association or corporation as the court shall prescribe. For the purpose of ascertaining the business and financial condition of any such association or corporation doing or desiring to do such business, the bank commissioner may make examinations of such associations or corporations, at such times and at such places as he may desire, the expense of such examinations being paid by the association or corporation examined, and may also require returns to be made in such form and at such times as he may elect. Whenever, upon examination or otherwise, it is the opinion of the bank commissioner that any such association or corporation is transacting business in such manner as to be hazardous to the public, or its condition is such as to render further proceedings by it hazardous to the public, said bank commissioner shall revoke or suspend the authority given to said association or corporation; but this section shall not prevent such association, corporation, or institution incorporated under the laws of another state, from loaning money upon mortgages of real estate located within the state.

121 Me. 192.

Sec. 121. Penalty for violation. R. S. c. 52, § 122. 1923, c. 144, § 121. Whoever violates any provision of the two preceding sections, shall be punished by a fine not exceeding one thousand dollars; and any provision thereof may on petition, be enforced by injunction issued by a justice of the supreme judicial court or of either superior court.

121 Me. 188.

Sec. 122. Duplicate pass book of loan and building associations may be issued upon proof of loss of original. 1923, c. 144, § 122. When the owner of shares in any loan and building association, evidenced by both pass book and certificate, or either of them, or the executor, administrator, or guardian of said owner, in writing notifies the secretary of said loan and building association issuing the same, that such pass book or certificate of shares is lost and that he desires to have a duplicate pass book or certificate of shares issued to him, said secretary shall give public notice of such application by publishing at the expense of such applicant an advertisement once a week for three weeks successively in some newspaper published in the town in which said loan and building association is located, if any, otherwise in one published in the county, if any, if not, then in the state newspaper. If such missing pass book or certificate of shares is not presented to said secretary within sixty days after the last advertisement, then he shall issue a duplicate pass book or certificate of shares to the person thus requesting the same and such delivery of the duplicate relieves said association from all liability on account of the original pass book or certificate of shares, so advertised.

Better Protection of Banks in Particular Transactions.

Sec. 123. Liability of banks for forged or raised checks, fixed. R. S. c. 40, § 40. No bank shall be liable to a depositor for the payment by it of a forged or raised check unless within one year after the return to the depositor of the voucher of such payment, such depositor shall notify the bank that the check so paid is forged or raised.

Note. Penalty for fraudulent issue of check without funds to pay it, c. 138, § 13.

Sec. 124. Limitation of actions to recover money paid on forged signatures. 1917, c. 91. No action at law or in equity, to recover money by any depositor, shall be maintained against any savings bank, institution for savings, or trust company, if the depositor denies the signature on any order drawn on any saving bank, institution for savings, or savings deposit or certificates of deposit in any trust company, or on any receipt for payment by such savings bank, institution for savings, or trust company, unless such action is begun, and service made thereon, within three years from the date of such payment.

Sec. 125. Time limit on stop payment of checks. 1923, c. 150, § 1. No revocation, countermand, or stop-payment order relating to the payment of any check or draft against an account of a depositor in any bank or trust company doing business in this state shall remain in effect for more than ninety days after the service thereof on the bank, unless the same be renewed, which renewals shall be in writing and which renewals shall be in effect for not more than ninety days from the date of service thereof on the bank or trust company, but such renewals may be made from time to time. All notices affecting checks upon which revocation, countermand or stop-payment order have been made at the time of the taking effect of this act shall not be deemed to continue for a period of more than ninety days thereafter.

Sec. 126. Payment on stale checks. 1923, c. 150, § 2. Where a check or other instrument payable on demand at any bank or trust company doing business in this state is presented for payment more than one year from its date, such bank or trust company may, unless expressly instructed by the drawer or maker to pay the same, refuse payment thereof and no liability shall thereby be incurred to the drawer or maker for dishonoring the instrument by non-payment.

Sec. 127. Non-payment of check through error. 1923, c. 150, § 3. No bank or trust company doing business in this state shall be liable to a depositor because of the non-payment through mistake or error and without malice of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such non-payment and in such event the liability shall not exceed the amount of damage so proved.

Sec. 128. Forwarding checks direct. 1923, c. 150, § 4. Any bank, banker, or trust company, hereinafter called bank, organized under the laws of, or doing business in, this state, receiving for collection or deposit, any check, note or other negotiable instrument drawn upon or payable at any other bank, located in another city or town whether within or without this state, may forward such instrument for collection directly to the bank on which it is drawn or at which it is made payable, and such method of forwarding direct to the payor shall be deemed due diligence, and the failure of such payor bank, because of its insolvency or other default, to account for the proceeds thereof, shall not render the forwarding bank liable therefor, provided, however, such forwarding bank shall have used due diligence in other respects in connection with the collection of such instrument.

Sec. 129. Adverse claim to bank deposit. 1923, c. 150, § 5. Notice to any bank or trust company doing business in this state of an adverse claim to a deposit standing on its books to the credit of any person shall not be effectual to cause said bank to recognize said adverse claimant unless said adverse claimant shall also either procure a restraining order, injunction, or other appropriate process against said bank from a court of competent jurisdiction in a cause therein instituted by him wherein the person to whose credit the deposit stands is made a party and served with summons, or shall execute to said bank, in form and with sureties acceptable to it a bond, indemnifying said bank from any and all liability,

loss, damage, costs, and expenses for and on account of the payment of such adverse claim or the dishonor of the check or other order of the person to whose credit the deposit stands on the books of said bank provided, that this law shall not apply in any instance where the person to whose credit the deposit stands is a fiduciary for such adverse claimant, and the facts constituting such relationship, as also the facts showing reasonable cause of belief on the part of said claimant that the said fiduciary is about to misappropriate said deposit, are made to appear by the affidavit of such claimant.

Sec. 130. Unlawful copying of bank records; penalty. 1917, c. 111. Any officer or employee of any savings bank, institution for savings, trust company, loan company, or loan and building association, making copies of any of the books, papers, records, or documents belonging to or in the custody of any of the before named institutions, either for his own use or for the use of any other person other than in the ordinary and regular course of his duties as such officer or employee, shall be subject to a penalty of a fine not exceeding five hundred dollars or by imprisonment not exceeding one year or by both such fine and imprisonment.

Industrial or Morris Plan Banks.

Sec. 131. Industrial banks, defined. 1917, c. 19. The term "industrial bank" as used in this act means any corporation formed under the provisions of sections one hundred thirty-one to one hundred thirty-nine.

Sec. 132. Organization. 1917, c. 19. Industrial banks may be organized in the same manner as is provided for the organization of trust companies, so far as applicable and not inconsistent with the provisions of sections one hundred thirty-one to one hundred thirty-nine.

Sec. 133. Government. 1917, c. 19. Except as herein otherwise provided, such corporations shall be governed and conducted in the manner provided by law for corporations generally in so far as not inconsistent with the provisions of sections one hundred thirty-one to one hundred thirty-nine.

Sec. 134. Capital stock and shares. 1917, c. 19. The capital stock of an industrial bank shall not be less than twenty-five thousand dollars in any town or city having a population of less than fifty thousand inhabitants, and shall not be less than fifty thousand dollars in any town or city having fifty thousand or more inhabitants and less than one hundred and fifty thousand inhabitants, and shall not be less than one hundred thousand dollars in any town or city having one hundred and fifty thousand inhabitants or more, according to the last official census. The capital stock of every such corporation shall be divided into shares of the par value of one hundred dollars each, at least twenty-five per cent of which shall be paid into the treasury of the corporation in cash before such corporation shall be authorized to transact any business other than such as relates to its formation and organization, and such payment shall be certified to the bank commissioner under oath by the president and manager of said corporation. The balance of the capital stock shall be paid to the corporation in cash at the rate of not less than ten per cent. per month following the initial payment. No corporation organized under this act shall create more than one class of stock.

Sec. 135. May use word "bank" as part of corporate title. 1917, c. 19. Every corporation incorporated under sections one hundred thirty-one to one hundred thirty-nine shall be known as an industrial bank, and may use the word "bank" as a part of its corporate title.

Sec. 136. Powers and duties. 1917, c. 19. 1925, c. 75. In addition to the

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powers conferred upon corporations by the general corporation law, every industrial bank shall have the following powers:

I. To lend money and discount notes, and to deduct interest thereon in advance at a rate no greater than eight per centum per annum; and in addition to receive uniform weekly or monthly installments on its certificates of indebtedness or deposit purchased by the borrower simultaneously with the said loan transaction, or otherwise, and pledged with the corporation as security for the said loan, with or without an allowance of interest on such instalments.

II. To sell or negotiate bonds, notes, certificates of investment, and choses in action for the payment of money at any time, either fixed or uncertain, and to receive payments in instalments or otherwise, with or without an allowance of interest upon such instalments.

III. To charge for a loan made pursuant to this section one dollar for each fifty dollars or fraction thereof loaned for expenses, including any examination or investigation of the character and circumstances of the borrower, co-maker, or surety and the drawing and taking acknowledgment of necessary papers or other expenses incurred in making the loan; no charge shall be collected unless a loan shall have been made as a result of such examination or investigation, and no such charge shall exceed five dollars.

IV. To establish branch offices or agencies in the manner and subject to the conditions prescribed for the establishment of branches or agencies in the case of trust companies.

Sec. 137. Prohibitions. 1917, c. 19. 1919, c. 145. No industrial bank shall:

I. Hold at any one time the direct obligation or obligations of any one person, firm, or corporation for more than four per centum of the amount of capital and surplus of such industrial bank.

II. Make any loan under the provisions of sections one hundred thirty-one to one hundred thirty-nine for a longer period than one year from the date thereof.

III. Deposit any of its funds with any other moneyed corporation unless such corporation has been designated as such depository by a vote of a majority of the directors or of the executive committee, exclusive of any director who is an officer, director, or trustee of the depository so designated.

Sec. 138. Bank commissioner to make examination and issue certificate. 1917, c. 19. Upon receipt by the bank commissioner of the certificate showing that twenty-five per cent. of the capital stock has been paid into the treasury of the corporation in cash as herein provided, said commissioner shall cause an examination to be made, and if after such examination it appears that the required amount of capital stock has been paid in in cash, and that all requirements of law have been complied with, said commissioner shall issue a certificate authorizing such corporation to begin the transaction of business. It shall be unlawful for any such corporation to begin the transaction of business until such a certificate has been granted.

Sec. 139. Under supervision and control of bank commissioner. 1917, c. 19. Every corporation incorporated under the provisions of the eight preceding sections shall be subject to the examination, supervision, and control of the bank commissioner and shall report to him in the manner provided for savings banks and savings institutions, and the provisions of sections forty-five to fifty-five, inclusive, shall apply to industrial banks.

Licensed Small Loan Agencies

Sec. 140. Loans; persons, etc., charging more than twelve per cent annually, must procure license; license fee, bond, provisions, etc. 1917, c. 298, § 1. No person, copartnership, or corporation shall engage in the business of making any loan of money, credit, goods, or choses in action in the amount or to the value of three hundred dollars, or less, whether secured or unsecured, and charge, contract for, or receive a greater rate of interest than twelve per centum per annum therefor, without first obtaining a license from the state bank commissioner. Application for such license shall be in writing and shall contain the full name and address, both of the residence and place of business, of the applicant, and if the applicant is a copartnership, of every member thereof, or if a corporation, of every officer thereof; also the county and municipality, with street and number, if any, where the business is to be conducted. Every such applicant, at the time of making such application, shall pay to the bank commissioner the sum of fifty dollars as an annual license fee and in full payment of all expenses of examinations under the administration of sections one hundred forty to one hundred fifty-seven. The applicant shall also, at the same time, file with the bank commissioner a bond in which the applicant shall be the obligor, in the sum of one thousand dollars with one or more sureties to be approved by said bank commissioner; which bond shall run to the bank commissioner of the State of Maine for the use of the state and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of said sections, and shall be conditioned that said obligor will conform to and abide by each and every provision of this act and will pay to the state and to any such person or persons, any and all moneys that may become due or owing to the state and to such person or persons from said obligor, under and by virtue of the provisions of sections one hundred forty to one hundred fifty-seven. If in the opinion of the bank commissioner the bond shall at any time appear to be insecure or exhausted, or otherwise doubtful, an additional bond in the sum of not more than one thousand dollars satisfactory to the bank commissioner shall be filed, and upon failure of the obligor to file such additional bond, the license shall be revoked by the bank commissioner.

Sec. 141. License to be issued by bank commissioner; expirations; rebate if for less than six months. 1917, c. 298, § 2. Upon the filing of such application and the approval of said bond and the payment of said fee, the bank commissioner shall issue a license to the applicant to make loans in accordance with the provisions of sections one hundred forty to one hundred fifty-seven for a period which shall expire the first day of January next following the date of its issuance; provided, that if the license is issued for a period of less than six months the license fee shall be twenty-five dollars. Such license shall not be assignable, and shall be kept conspicuously posted in the place of business of the licensee.

Sec. 142. Revocation of license. 1917, c. 298, § 3. The bank commissioner may, in his discretion, upon notice to the licensee and opportunity to be heard, revoke such license if satisfied that the licensee has violated any provision of sections one hundred forty to one hundred fifty-seven or any existing statute. The issuance of another license after a revocation shall be at the discretion of the bank commissioner. In case the licensee shall be convicted a second time of a violation of sections one hundred forty-seven and one hundred forty-eight or any existing statute the bank commissioner shall revoke such license; provided, that the second offense shall have occurred after a prior conviction.

Sec. 143. Transaction of business under other name or at other place than

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stated in license prohibited; removal of licensee. 1917, c. 298, § 4. No person, copartnership, or corporation so licensed shall make any loan or transact any business provided for by sections one hundred forty to one hundred fifty-seven, under any other name or at any other place of business than that named in the license. Not more than one office or place of business shall be maintained under the same license, but the bank commissioner may issue more than one license to the same person upon the payment of an additional license fee and the filing of an additional bond for each license. In case of the removal of a licensee, he shall at once give written notice thereof to the bank commissioner, who shall attach to the license his consent in writing to the removal.

Sec. 144. Investigations by bank commissioner. 1917, c. 298, § 5. The bank commissioner for the purpose of discovering violations of sections one hundred forty to one hundred fifty-seven may either personally, or by any person designated by him, at any time and as often as he may desire, investigate the loans and business of every licensee and of every person, copartnership, and corporation by whom or by which any such loan shall be made, whether such person, copartnership or corporation shall act, or claim to act, as principal, agent, or broker, or under, or without the authority of sections one hundred forty to one hundred fifty-seven; and for that purpose he shall have free access to the books, papers, records and vaults of all such persons, copartnerships and corporations; he shall also have authority to examine, under oath, all persons whomsoever whose testimony he may require, relative to such loans or business.

Sec. 145. Bank commissioner to prescribe manner of keeping records; records to be preserved. 1917, c. 298, § 6. 1923, c. 144, § 140. The licensee shall keep such books and records as in the opinion of the bank commissioner will enable the commissioner to determine whether the provisions of sections one hundred forty to one hundred fifty-seven are being observed, and shall report to the bank commissioner monthly all outstanding loans, the principal of which shall exceed ten dollars. Every such licensee shall preserve the records of final entry used in such business, including cards used in the card system, if any, for a period of at least two years after the making of any loan recorded therein.

Sec. 146. False statements as to rates, etc., distributed by licensee, prohibited. 1917, c. 298, § 7. No licensee or other person or corporation shall print, publish, or distribute or cause to be printed, published, or distributed in any manner whatsoever, any written or printed statement with regard to the rates, terms, or conditions for the lending of money, credit, goods, or choses in action, in amounts of three hundred dollars or less, which is false or calculated to deceive.

Sec. 147. Amount of loan and rate of interest limited. 1917, c. 298, § 8. 1923, c. 144, § 141. Every person, copartnership, and corporation licensed hereunder may loan any sum of money, goods, or choses in action not exceeding in amount or value the sum of three hundred dollars, and may charge, contract for, and receive thereon interest at a rate not to exceed three and one-half per centum per month, provided, however, that a minimum charge of not exceeding twenty-five cents shall be allowable in all cases. No person shall owe any licensee at any time more than three hundred dollars for principal.

Sec. 148. Interest; how computed and paid; additional charges except lawful fees prohibited. 1917, c. 298, § 9. Interest shall not be payable in advance or compounded, and shall be computed on unpaid balances. In addition to the interest herein provided for, no further or other charge or amount whatsoever for any examination, service, brokerage, commission, or other thing, or otherwise, shall be directly or indirectly charged, contracted for, or received, except lawful fees, if any, actually and necessarily paid out by the licensee to any public officer

for filing or recording in any public office any instrument securing the loan, which fees may be collected when the loan is made, or at any time thereafter. If interest or charges in excess of those permitted by sections one hundred forty to one hundred fifty-seven shall be charged, contracted for, or received, the contract of loan shall be void, and the licensee shall have no right to collect or receive any principal, interest, or charges whatsoever.

Sec. 149. Duties imposed upon licensee. 1917, c. 298, § 10. Every licensee shall:

I. Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the rate of interest charged. Upon such statement there shall be printed in English a copy of sections one hundred forty-seven and one hundred forty-eight;

II. Give to the borrower a plain and complete receipt for all payments made on account of any such loan at the time such payments are made;

III. Upon repayment of the loan in full, mark indelibly every paper signed by the borrower with the word "paid" or "cancelled," and discharge any mortgage, restore any pledge, return any note, and cancel any assignment given by the borrower as security.

Sec. 150. Restrictions imposed upon licensee. 1917, c. 298, § 11. No licensee shall take any confession of judgment or any power of attorney. Nor shall he take any note, promise to pay, or security that does not state the actual amount of the loan, the time for which it is made, and the rate of interest charged, nor any instrument in which blanks are left to be filled after execution.

Sec. 151. Assignment of wages; provisions relating to. 1917, c. 298, § 12. No assignment of any salary or wages, earned or to be earned, given to secure a loan, shall be valid unless in writing signed in person by the borrower; nor, if the borrower is married, unless it shall be signed in person by both husband and wife; nor shall such assignment be valid unless given to secure a debt contracted simultaneously with its execution. All such assignments shall be subject to the provisions of section nine of chapter one hundred twenty-two.

Sec. 152. Interest greater than twelve per cent annually except as herein provided, prohibited; attempted evasion by pretended purchase. 1917, c. 298, § 13. No person, copartnership, or corporation except as authorized by sections one hundred forty to one hundred fifty-seven shall, directly or indirectly, charge, contract for, or receive any interest or consideration greater than twelve per centum per annum upon the loan, use, or forbearance of money, goods, or choses in action, or upon the loan, use, or sale of credit, of the amount or value of three hundred dollars or less. The foregoing prohibition shall apply to any person who, as security for any such loan, use, or forbearance of money, goods, or choses in action, or for any such loan, use, or sale of credit, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who, by any devise or pretense of charging for his services, or otherwise, seeks to obtain a greater compensation than is authorized by sections one hundred forty to one hundred fifty-seven.

Sec. 153. Penalty for violations. 1917, c. 298, § 14. Any person, and the several officers and employees of any corporation, who shall violate any of the foregoing prohibitions shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment of not more than six months, or by both such fine and imprisonment in the discretion of the court.

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Any licensee and any officer or employee of a licensee who shall violate any of the provisions of sections one hundred forty-seven and one hundred forty-eight shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars or by imprisonment of not more than six months, or by both such fine and imprisonment in the discretion of the court.

Sec. 154. Loans made elsewhere in violation of this act not to be enforced in this state. 1917, c. 298, § 15. No loan for which a greater rate of interest or charge than is allowed by sections one hundred forty to one hundred fifty-seven has been contracted for or received, wherever made, shall be enforced in this state, and any person in any wise participating therein in this state shall be subject to the provisions of said sections.

Sec. 155. Exceptions. 1917, c. 298, § 16. This act shall not apply to any person, copartnership, or corporation doing business under any law of this state or of the United States relating to banks, industrial banks, trust companies, or building and loan associations.

Sec. 156. Examiner to be appointed to enforce law; compensation. 1917, c. 298, § 17. 1919, c. 163. For the enforcement of the provisions of sections one hundred forty to one hundred fifty seven the bank commissioner is authorized to appoint an examiner, the amount of his compensation to be subject to the approval of the governor and council, who shall also receive his necessary traveling expenses. The salary and traveling expenses, before mentioned, and all expenses of administration and enforcement of this chapter shall be paid out of the appropriation for that purpose and the fees received from licenses issued under the provisions of said sections.

Sec. 157. Invalidity of any particular portions not to affect entire act. 1917, c. 298, § 18. The invalidity of any portion of sections one hundred forty to one hundred fifty-seven shall not affect the validity of any other portions thereof which may be given effect without such invalid portion.

Registration of Dealers in Securities.

Sec. 158. Dealers in securities to be registered; salesmen to be registered. 1923, c. 144, § 123. No dealer in securities shall in this state, by direct solicitation or through agents or salesmen, or by letter, circular or advertising, sell, offer for sale, or invite offers for or inquiries about, securities unless registered as a dealer under the provisions of the following sections. No salesman or agent shall in this state, in behalf of any dealer, sell, offer for sale, or invite offers for or inquiries about, securities unless registered as a salesman or agent of such dealer, under the provisions of the following sections.

Sec. 159. Application for registration; non-resident dealers to file power of attorney; notice and proceedings on application; issue of certificate and changes therein. 1923, c. 144, § 124. Any dealer desiring registration shall file written application therefor with the bank commissioner, which shall be in such form as may be prescribed by the commissioner, and shall state the principal place of business, the name or style of doing business, and the address of the dealer, the names, residences, and business addresses of all persons interested in the business as principals, officers, directors, or managing agents, specifying as to each his capacity and title, and the length of time during which the dealer has been engaged in the business. Each application shall be accompanied by certificates or other evidence of the dealer's good repute, and, if required by the commissioner, a copy of the securities to be sold, a statement in detail of the assets and liabili-

ties of the issuer of such securities, a statement in such form as the commissioner may prescribe of the general affairs of the dealer and issuer, copies of any mortgage or instrument creating a lien by which such securities are secured, a full statement of the earnings and expenses of each issuer for three years prior to the filing of the application, a copy of any contract to underwrite the securities to be offered for sale, the names and addresses of all persons holding ten per cent or more of the capital stock of the issuer, a statement in detail of the plan on which the business of the dealer is to be conducted, and such other information as the commissioner may deem necessary in considering the application.

Every non-resident shall file a power of attorney, irrevocable, properly authorized, and with satisfactory certificates or other evidence of the authorization, appointing the commissioner agent for the service of legal process upon the dealer in any actions in the courts of this state, based upon or arising in connection with any sale of, attempt to sell, or advertising of, securities in this state, or any violation of sections one hundred fifty-eight to one hundred seventy, both inclusive.

Upon the filing of the application, the commissioner shall forthwith give notice of the fact and date of such application, and of the name, principal place of business, and address of the dealer, by advertisement inserted once in the state paper, and once in a newspaper of general circulation where the dealer's place of business is located, if it is elsewhere in this state than in the city of Augusta. The registration certificates shall not be issued before the expiration of two weeks from the last publication. Any person may, within such period of two weeks, file objection to the proposed registration.

If the commissioner is satisfied that the dealer is of good repute, and that the proposed plan of business of the dealer is not unfair, unjust, or inequitable, and that the dealer intends to honestly and fairly conduct its business, with disclosure of pertinent facts sufficient to enable intending purchasers to form a judgment of the nature and value of the securities, and without intent to deceive or defraud, and that the securities that it proposes to issue or sell are not such as in his opinion will work a fraud upon the purchasers thereof, he shall register the dealer unless objection to such registration shall be filed with the commissioner within the period of two weeks succeeding the publication of the dealer's application.

If the commissioner is not so satisfied, or if, within the period of two weeks succeeding the publication aforesaid, objection shall be made to the proposed registration, the commissioner shall give notice of either fact to the dealer, and upon request from the dealer shall fix a time and place for hearing, and at such hearing opportunity shall be given to said dealer, and to any other persons interested or objecting, to offer further evidence relating to the dealer's application. If satisfied, as aforesaid, as a result of such hearing, the commissioner shall thereupon register the dealer. Registration may be granted upon such reasonable conditions as may be imposed by the commissioner.

Upon registration of any dealer, a registration certificate shall be issued stating the name, principal place of business, and address of the dealer, the names, residences, and business addresses of all persons interested in the business as principals, officers, directors, or managing agents, and the fact that the dealer has been registered for the current calendar year as a dealer in securities. The certificate shall in other respects be in such form as the commissioner may determine, but shall state in bold type that the commissioner does not recommend, and assumes no responsibility for, securities offered by the dealer. Changes in the certificate, necessitated by changes in the personnel of a partnership or in the prin-

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cipals, officers, directors, or managing agents of any dealer, may be made at any time upon written application to the commissioner, accompanied by statement of the facts necessitating the change. Upon the issue of the amended certificates, the original certificate and the certified copies thereof outstanding shall be promptly surrendered to the commissioner.

Sec. 160. Registration of agents or salesmen. 1923, c. 144, § 125. Upon written application by a registered dealer, the commissioner may register, as agents or salesmen of such dealer, such persons as the dealer may request. The application shall be in such form as the commissioner may prescribe, and shall state the residences and addresses of the persons whose registration is requested. The commissioner shall issue to each person so registered a registration certificate, state his name, residence and address, the name, principal place of business, and the address of the dealer, and the fact that he is registered for the current calendar year as agent or salesman, as the case may be, of the dealer. The certificate shall in other respects be in such form as the commissioner shall determine, but shall state in bold type that the commissioner does not recommend, or assume any responsibility for, securities offered by the dealer, or the dealer's agents or salesmen. Upon application by the dealer, the registration of any agent or salesman shall be cancelled.

Sec. 161. Definition of terms "dealer" and "securities." 1923, c. 144, § 126. Under sections one hundred fifty-eight to one hundred seventy, both inclusive, the term "dealer" shall mean any individual, partnership, association, or corporation engaging in the business of selling or offering for sale securities, except to, or through the medium of, or as agent or salesman of, a registered dealer. But sales made by, or in behalf of, a vendor in the ordinary course of bona fide personal investment, or change of investment, shall not constitute such vendor, or the agent of such vendor, if not otherwise engaged either permanently or temporarily in selling securities, a dealer in securities. Nor shall the offer of or sale of its own securities by an association or a corporation to its own members or stockholders constitute such association or corporation a dealer in securities.

The term "securities" shall include all stocks, bonds, debentures, or certificates of participation, and all other forms of securities, except that it shall not be held to include commercial paper or other evidence of debt running not more than nine months, or securities legal for purchase by savings banks under the statutes of any New England state, or notes secured by mortgage of real estate in this state, or the shares of loan and building associations organized under the laws of this state, or securities whose issue has been authorized by the Maine public utilities commission.

Sec. 162. Registrations to expire at close of calendar year; renewals. 1923, c. 144, § 127. All registrations shall expire at the close of the calendar year, but new registrations for the succeeding year may be issued as of course, upon written application of the dealer, and payment of the fee hereinafter provided, without the filing of further statements or furnishing any further information, unless specifically requested by the commissioner; provided, that applications for renewal of registration shall be made on or before the first day of March in each year, and if not so made, applications thereafter received shall be treated as, and be subject to the same fees provided for, original registrations.

Sec. 163. List of dealers to be published. 1923, c. 144, § 128. The commissioner shall, at least twice during each year, publish in the state paper a list of the then registered dealers, and of their registered agents or salesmen, and shall also at any time, on request by mail or otherwise, inform any inquirer as to

whether or not any individual, partnership, corporation, or association is registered either as dealer, agent, or salesman.

Sec. 164. Certificate to be shown to prospective purchasers. 1923, c. 144, § 129. Any dealer may, and any person named in a registration certificate as above provided may, in behalf of any dealer, sell, offer for sale, or invite offers for or inquiries about securities in this state, but shall at all times when so engaged carry with him the registration certificate, or a copy thereof, certified by the commissioner, which shall at any time be shown to any prospective customer upon request. No dealer, agent, or salesman shall advertise publicly the fact of his registration or use such fact or the registration certificate, in connection with any sale or effort to sell securities, except by statement of the fact or by exhibiting the certificate or a certified copy thereof.

Sec. 165. Commissioner may require dealer to file list of securities, and statements of assets and earnings. 1923, c. 144, § 130. The commissioner may at any time require a dealer to file with him a list of the securities which he has offered for sale or advertised within the preceding six months, or which he is at the time offering for sale or advertising, or any portion thereof; and may require the filing of statements of assets or earnings, or any other facts he may deem pertinent in relation to any of the securities offered or to be offered by the dealer, or the associations or corporations issuing them; and may require the filing of copies or any or all printed or otherwise reduplicated circulars or printed advertisements relating to securities which the dealer has within six months offered for sale or which the dealer shall thereafter offer for sale; and, thereupon, unless satisfied that all such offerings of the dealer have been and are to be made honestly and in good faith, and with disclosure of pertinent facts sufficient to enable intending purchasers to form a judgment of the nature and value of the securities, and without intent to deceive or defraud, and that such securities will not work a fraud upon the purchasers thereof, may prohibit the dealer from selling or offering the securities, or any of them, or in any way advertising them.

Sec. 166. Dealer's registration may be revoked; registration of agent of salesman thereby revoked. 1923, c. 144, § 131. The commissioner may, unless furnished with satisfactory evidence as provided in the preceding section, or in case of violation of any provision of sections one hundred fifty-eight to one hundred sixty-nine, both inclusive, or in case of dishonest, deceitful, or fraudulent conduct on the part of the dealer in connection with the carrying on of the business, revoke the dealer's registration; and may, having reasonable cause to believe that the dealer may have been guilty of violation of the provisions of said sections, or of dishonest, deceitful or fraudulent conduct in connection with the carrying on of the business, suspend the dealer's registration until satisfied to the contrary. In either case, the dealer shall not be regarded as registered under the provisions hereof, until restored to registration by the commissioner, either on his own initiative or upon order of court as hereinafter provided.

The revocation or suspension of the dealer's registration shall constitute a revocation or suspension of the registration of any agent or salesman of the dealer.

Sec. 167. Agent's registration may be revoked. 1923, c. 144, § 132. The commissioner may, in case of violation of any provision of sections one hundred fifty-eight to one hundred sixty-nine, both inclusive, or in case of dishonest, deceitful, or fraudulent conduct on the part of any agent or salesman in connection with the business, revoke the agent's or salesman's registration; and may, having reasonable cause to believe that the agent or salesman may have been guilty of violation of the provisions of said sections, or dishonest, deceitful, or fraudulent conduct in connection with the business, suspend the agent's or salesman's regis-

tration until satisfied to the contrary. In either case, the agent or salesman shall not be regarded as registered under the provisions hereof, until restored to registration by the commissioner, either on his own initiative or upon order of court as hereinafter provided.

In case of suspension or revocation of registration, all certificates shall at once be surrendered to the commissioner upon his request.

Sec. 168. Service of notices. 1923, c. 144, § 133. Notice of any requirement or decision of the commissioner shall be sufficient if sent by mail addressed to the dealer, agent, or salesman, as the case may be, at the address designated in the application for registration.

Sec. 169. Appeals; proceedings thereon. 1923, c. 144, § 134. Appeals may be taken by any person aggrieved by any decision of the commissioner to a justice of the supreme judicial court, by petition addressed to that court, stating the decision complained of. No such appeal from a refusal to grant registration shall lie until after formal hearing, which formal hearing, however, the commissioner in his discretion may waive for the purpose of expediting the appeal. Upon such petition, citation shall be issued to the commissioner, who shall file an answer to the petition, stating therein his reasons for the decision. The court may, in its discretion, after hearing the commissioner, or his representative, suspend the order of the commissioner, pending the determination of the petition upon its merits, and may, after final hearing thereon, make such decree in connection with the matter complained of as justice may require. The court shall make provision for summary hearing and determination of such petitions so far as in its discretion seems desirable.

Sec. 170. Penalties; jurisdiction of court; examiners. 1923, c. 144, § 135. Any dealer or any person violating any provision of sections one hundred fifty-eight to one hundred sixty-nine, both inclusive, or knowingly filing with the commissioner or furnishing to him any false or misleading statements or information, shall be punished upon conviction thereof by a fine of not more than one thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, and municipal and police courts shall have original and concurrent jurisdiction with the supreme judicial and superior courts. The foregoing penalties shall be in addition to, and not a substitute for, any civil or criminal liability now or hereafter existing. Authorization is hereby conferred upon the supreme judicial court in equity to enjoin, upon application by the bank commissioner, or any party in interest, any violation or threatened violation of any of the foregoing provisions of this chapter.

The bank commissioner is authorized to appoint an examiner who shall, under his directions, have charge of the enforcement of the provisions of sections one hundred fifty-eight to one hundred sixty-nine, both inclusive, and make any necessary investigations thereunder; the amount of his compensation to be subject to the approval of the governor and council. The salary and traveling expenses of such examiner and all expenses of administration and enforcement of sections one hundred fifty-eight to one hundred sixty-nine, both inclusive, shall be paid out of the registration fees received from dealers in securities. Dealers in securities shall pay to the bank commissioner, for the use of the state, fees as follows, to wit: for registration or renewal of dealers in securities, twenty-five dollars; for registration or renewal of registration of salesman or agent of dealers in securities, ten dollars each; for certified copy of dealer's certificate, fifty cents each.

CHAPTER 57.

Farm Lands Loan Act.

Sec. 1. Principal and income reserved lands made separate funds. 1917, c. 303, § 1. All moneys on deposit in the state treasury on account of lands reserved for public uses which shall constitute the principal fund of such account on January first, one thousand nine hundred and eighteen, and all amounts credited to the same under the provisions of sections nineteen and twenty, of chapter eleven, of the revised statutes, shall remain separate funds, the principal sum of which shall continue undiminished, except when payments shall be made therefrom to towns under the provisions of section twenty-one, of chapter eleven, of the revised statutes, or when invested in securities according to the provisions of this act.

Sec. 2. Farm lands loan commissioners of Maine; composition of board, powers, and duties. 1917, c. 303, § 2. The governor, the state auditor, the forest commissioner, the commissioner of agriculture, and the state commissioner of education shall constitute a board to be known as the Farm Lands Loan Commissioners of Maine. Said commissioners shall have control of the investment of the funds arising from the sale or lease of public lands now on deposit in the state treasury and known as the reserved land fund. They shall also have control of the investment of amounts hereafter added to the principal fund of said account under the provisions of section seventeen of chapter eleven, of the revised statutes. They may make investigations concerning the rights of the state in and to any islands or other lands and may report to any future session of the legislature their recommendations relative to securing such lands as the state is or may hereafter be entitled to, and may recommend the sale of the same if they deem a sale advisable.

Sec. 3. How commissioners may invest funds. 1917, c. 303, § 3. The said commissioners shall in their discretion invest the principal of the funds which have arisen or may hereafter arise from the sale and lease of the lands reserved for public uses, keeping the principal funds separate from the interest, in the following named bonds and loans, but in no other manner, to wit: 1. In the purchase of bonds of this state; 2. In approved mortgages on agricultural lands, as hereafter provided in this act; 3. In the bonds of any city, town, or county of Maine; 4. In the bonds of the United States.

Sec. 4. Application for loan; what it shall contain. 1917, c. 303, § 4. Every application for a loan made in pursuance of the third clause as above shall be in writing, stating the amount required, the purpose for which it is to be applied and the time and terms of repayment and shall be accompanied by due proof of the assessed valuation for the preceding three years of the taxable property within the town, village, city, or county making the application and of the existing indebtedness thereof.

Sec. 5. Loans on security of agricultural lands; general provisions. 1917, c. 303, § 5. Loans made from such fund on the security of agricultural lands shall be made in accordance with the following provisions: The commissioners shall from time to time furnish the chairman of the municipal officers of the various cities, towns, and plantations of the state with a sufficient number of blank ap-

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plications for loans. Each blank application shall contain questions relative to the purpose for which the loan is desired, the residence of the applicant for the loan, his interest in the land offered as security, a detailed description of the boundaries of such land, the assessed and the market value of the same, the nature of the land, and any other matters which the commissioners may deem relevant. Any person desiring a loan may make a request for a blank application for a loan to the chairman of the municipal officers of the town in which the land which it is proposed to offer as security is located and the said chairman shall furnish such person with a blank application and shall advise him as to the proper manner of filing the same. The applicant for a loan shall take oath before the city, town, or plantation clerk to the truth of the statements made in his application, which application shall thereupon be transmitted to the commissioners at Augusta.

Sec. 6. Town officers to inform commissioners as to value of land, etc. 1917, c. 303, § 6. In addition to the application the applicant shall also file an abstract of title to the land which the applicant offers as security, which abstract of title shall likewise be transmitted to the farm lands loan commissioners, as aforesaid. In addition to the statements made as above prescribed the commissioners may request such further statements from these or other town officers with respect to the value of the land offered as security for a loan and the truth of the statements made by the applicant in his application as may reasonably be in their power as town officers to make and all such officers shall comply with their requests, when made, without compensation.

Sec. 7. Conditions under which loans may be granted; amount; rate of interest, payment, purposes, fund available, expiration, etc. 1917, c. 303, § 7. 1919, cc. 141, 223. 1921, c. 147. 1923, c. 4. 1925, c. 117. The commissioners shall meet twice monthly whenever one or more applications for loans are awaiting consideration, or oftener in their discretion, to consider applications and they shall consider and dispose of all applications in the order in which such applications were received. The commissioners may grant applications for loans for which sufficient security as hereinafter provided is offered, subject to the approval of the attorney general of the title of the land offered as security. The commissioners may grant applications for the full amount asked or when they consider the security offered to be inadequate, they may reduce the amount of the loan to a sum for which they deem the security to be adequate.

First. The commissioners shall require as security for every farm loan a first mortgage on farm real estate of a market value at least double the amount of the loan;

Second. No loan shall be granted to any person who is not an actual resident of this state and a bona fide occupant of the land offered as security;

Third. No loan shall be granted upon any land on which the market value is less than ten dollars per acre;

Fourth. No loan of less than three hundred or more than ten thousand dollars shall be made to any one person, and no person shall be granted separate loans aggregating more than ten thousand dollars;

Fifth. The reserved land fund, not invested, shall be set aside for loans under this section, or for any of the purposes set forth in section three, and the amount of said fund is hereby appropriated for such uses;

Sixth. Loans shall be granted only for the purpose of assisting the borrower to erect necessary dwelling houses and farm buildings, to build silos, clear his land of forest growth, for the purchase of live stock and farm machinery, and

for any other legitimate agricultural purpose, and also to refund an existing mortgage;

Seventh. The borrower shall pay a charge of five per cent per annum, payable semi-annually, for the use of the loan from the date of the loan and thereafter so long as the loan remains unpaid, and shall assign to the state, so far as its interests may appear, any policy of insurance upon buildings on any property mortgaged under this act during the lifetime of the mortgage. All loans shall be made for a term of not less than one, nor more than twenty years, but the principal of the loan, in whole or in part, at the option of the borrower may be paid on any interest date occurring not less than one nor more than nineteen years after the date of the loan, and in any event the whole shall be payable in twenty years, and when partial payments are made, the semi-annual charge of five per cent per annum shall be made only upon the unpaid balance of the principal of the loan.

Provided, that all loans made at the rate of seven per cent between July seventh, nineteen hundred and twenty-one, in pursuance of chapter one hundred and forty-seven, of the public laws of nineteen hundred and twenty-one, and July seventh, nineteen hundred and twenty-three, may be re-issued so that the rate of interest thereon shall be five per cent per annum, from the date of such re-issue.

Sec. 8. Transactions to be conducted through a bank selected by applicant; specific provisions; commissioners may cause land to be examined; may refuse entire loan or may grant reduced amount. 1917, c. 303, § 8. The commissioners shall loan to borrowers in accordance with the following provisions: 1. Every applicant for a loan shall select a bank to receive deposits of the money loaned to him by the commissioners. 2. When the commissioners grant a loan they shall deposit in the bank selected by the applicant for the loan a sum of money equal to the amount of the loan granted and shall furnish the bank with the mortgage and notice necessary to the proper securing of the loan, prepared ready for the signature of the applicant for the loan, and the bank shall agree to hold the sum of money so deposited until directed by the commissioners to pay it to the applicant for the loan or to dispose of it in some other manner directed by the commissioners; the bank shall further agree to record the mortgage with the proper registry of deeds and to return the papers to the commissioners without charge to the commissioners or to the borrower, except that the bank may require the borrower to pay the fee charged by the register of deeds for recording the mortgage together with any sums paid for revenue stamps as may be required by law, and the amount necessary to reimburse the commissioners for sums paid for examination of the land, and of record of title. 3. Before authorizing the bank of deposit selected by the applicant for a loan to make payment to him of the amount of his loan, the commissioners shall cause an examination of the land offered as security by the applicant for the loan to be made by some competent person. If the commissioners are satisfied, upon receipt of the report of the person examining the land offered as security, that the land is of a value at least equal to that accepted as a true value by the commissioners in granting the loan, they shall direct the bank in which they have deposited the amount of the loan to pay a sum equal to this amount to the applicant for the loan. If the commissioners are not satisfied that the land offered as security for the loan is of a value equal to that accepted by them as a true value in granting the loan; they may, as justice demands, refuse altogether to pay the loan to the applicant or they may reduce the amount of the loan to a sum for which the security offered is adequate and may give the bank selected by the applicant appropriate directions

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for the disposal of the funds deposited with it for the payment of the loan in question.

Sec. 9. State auditor secretary of board; to institute proceedings on overdue payments. 1917, c. 303, § 9. 1927, c. 40. The state auditor shall act as secretary of said commissioners and he shall keep a record of all bonds, mortgages, and notes securing the same taken under authority of this act, showing all necessary information relative to the bonds taken, the name of the mortgagor, the amount of the mortgage, when executed, when and where payable, the rate of interest, and any other matters that he may deem essential, and he is hereby authorized and required in the name of the state to institute and prosecute proceedings, by any of the methods provided by law of foreclosure when any sums are overdue on notes taken hereunder; and he is hereby further authorized on recommendation of the commissioners to sell and convey in the name and on behalf of the state the interest of the state in property acquired by foreclosure under this section, and the net proceeds of such sale shall be credited to the fund from which such mortgage loan was originally made. All expenses incidental to or connected with the carrying out of the provisions of this act shall, with the approval of the governor and council, be paid from the reserved land fund, and so much of said fund as is necessary to pay such expenses is hereby appropriated for said purpose.

Sec. 10. Commissioners, attorney general, and assistant to receive no additional compensation. 1917, c. 303, § 10. The officers constituting the Farm Lands Loan Commissioners shall receive no additional compensation on account of said services, but shall be paid their actual and reasonable expenses necessarily incurred in the performance of their duties under this act. The attorney general and his assistant shall serve said board without additional compensation.

Sec. 11. Commissioners to pay to plantations accrued interest due; to make investigation of other funds in state treasury and report to next legislature. 1917, c. 303, § 11. The Farm Lands Loan Commissioners are hereby authorized and directed to pay to plantations all accrued interest due such plantations so far as may be possible under existing provisions of law and so much of said fund as may be necessary to pay such interest is hereby appropriated for said purpose.

CHAPTER 58.

The Co-Operative Marketing Act.

Sec. 1. Declaration of Policy. 1923, c. 88, § 1. In order to promote, foster, and encourage the intelligent and orderly marketing of agricultural products through co-operation; and to eliminate speculation and waste; and to make the distribution of agricultural products between producer and consumer as direct as can be efficiently done; to stabilize the marketing of agricultural products; and to provide for the organization and incorporation of co-operative marketing associations for the marketing of such products, this act is passed.

Sec. 2. Definitions. 1923, c. 88, § 2. 1925, c. 213. As used in this act,

(a) The term "agricultural products" includes horticultural, viticultural, forestry, dairy, live stock, poultry, bee, and any farm products.

(b) The term "member" includes actual members of associations without capital stock and holders of common stock in associations organized with capital stock.

(c) The term "association" means any corporation organized under this act; and shall include all similar associations, foreign or domestic, operating within this state, either de jure or de facto.

(d) The term "person" includes individuals, firms, partnerships, corporations and associations.

(e) Associations organized hereunder shall be deemed "non-profit," inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers.

(f) The word "liens," as used in this act, shall include all liens on, security interests in, or claims upon crops or other farm products arising at law or in equity, by statute or otherwise, and including the following in so far as they attach to crops or other farm products; crop liens, vendors' liens, labor, money, material and supply liens, landlord and owners' liens, pledges, chattel mortgages, attachments, judgment liens, and trustee process. It shall also include the lien attaching to proceeds arising from such commodities, under the terms of this act.

(g) The word "lienholder," as used in this act, shall include all persons, firms, partnerships, corporations and associations in whom an above described lien is vested, or who have contracted for such a lien.

(h) The words "marketing agreement," as used in this act, shall include any proper contracts for the sale or delivery of farm commodities to such associations.

(i) The word "crop," as used in this act, shall signify any or all commodities which an association may legally contract for in a marketing agreement.

(j) For the purpose of brevity and convenience this act may be indexed, referred to and cited as "The Co-Operative Marketing Act."

Sec. 3. Who may organize under this act. 1923, c. 88, § 3. Eleven or more persons, a majority of whom are residents of this state, engaged in the production of agricultural products, may form a non-profit, co-operative association, with or without capital stock, under the provisions of this act.

Sec. 4. Purposes for which an association may be formed. 1923, c. 88, § 4. An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment, or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified herein;

Provided, however, that nothing herein contained shall be construed to authorize a corporation organized hereunder to transact business in any other state, territory or foreign country, contrary to the provisions of the laws of such state, territory, or foreign country, and the following corporate purposes shall be exercised only in states and jurisdictions other than Maine, namely, the construction and operation of railroads, or aiding in the construction thereof, telegraph or telephone companies and gas or electrical companies, and such businesses are to be carried on only in states and jurisdictions when and where permissible under the laws thereof.

Sec. 5. Powers granted to associations. 1923, c. 88, § 5. It is here recognized that agriculture is characterized by individual production in contrast to the group or factory system that characterizes other forms of industrial production; that the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the

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manufacturing industries; that it is for the public interest to prevent migration from the farm to the city in order to maintain farm production and to preserve the agricultural supply of the nation; that the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing, in the substitution of merchandising for the blind, unscientific and speculative selling of crops.

And each association incorporated under this act shall have the following powers:

(a) To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural products produced or delivered to it by its members, or the manufacturing or marketing of the by-products thereof; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment; or in the financing of any such activities; or in any one or more of the activities specified in this section. No association, however, shall handle the agricultural products of any non-member, except for storage.

(b) To borrow money without limitation as to amount of corporate indebtedness or liability; and to make advance payments and advances to members.

(c) To act as the agent or representative of any member or members in any of the above mentioned activities.

(d) To purchase or otherwise acquire; and to hold, own, and exercise all rights of ownership in; and to sell, transfer, or pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing or handling or marketing of any of the products handled by the association.

(e) To establish reserves and to invest the funds thereof in bonds or in such other property as may be provided in the by-laws.

(f) To buy, hold, and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or business incidental thereto.

(g) To establish, secure, own, and develop patents, trade-marks, trade-names, and copy-rights.

(h) To do each and every thing necessary, suitable, or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged, and, in addition, any other rights, powers, and privileges granted by the laws of this state to corporations organized under the general laws of this state, except such as are inconsistent with the express provisions of this act; and do any such thing anywhere.

Sec. 6. Members and stockholders. 1923, c. 88, § 6. (a) Under the terms and conditions prescribed in the by-laws adopted by it, an association may admit as members (or issue common stock to), only co-operative marketing associations or persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent all or any part of the crop raised on the leased premises.

(b) If a member of a non-stock association be other than a natural person,

such member may be represented by any individual, associate, officer, or manager or member thereof, duly authorized in writing.

(c) One association organized hereunder may become a member or stockholder of any other association or associations organized hereunder.

Sec. 7. Certificate of organization to be filed; contents. 1923, c. 88, § 7. Before commencing business, the president, treasurer, and a majority of the directors shall prepare and file a certificate of organization, setting forth:

(a) The name of the association.
(b) The purposes for which it is formed.
(c) The place where its principal business will be transacted.
(d) The term for which it is to exist, not exceeding fifty years.
(e) The number, names, and addresses of the directors thereof, which shall be not less than five and may be any number in excess thereof, and the term of office of such directors.

(f) The name of the clerk and his residence.

(g) If organized without capital stock, whether the property rights and interest of the members shall be equal or unequal; and, if unequal, the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association in accordance with such general rule or rules. This provision or paragraph of the certificate of organization shall not be altered, amended, or replaced except by the written consent or vote of three-fourths of the members.

(h) If organized with capital stock, the amount of such stock, the number of shares into which it is divided and the par value thereof.

The capital stock may be divided into preferred and common stock. If so divided, the certificate of organization shall contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.

The certificate shall be subscribed by the president and a majority of the directors and acknowledged by one of them before an officer authorized by law to take and certify acknowledgments of deeds; and shall be filed in accordance with the provisions of the general corporation law; and when so filed the said certificate of organization, or certified copy thereof, shall be received in all the courts of this state as prima facie evidence of the facts contained therein and of the due incorporation of such association. A certified copy shall also be filed with the commissioner of agriculture.

Sec. 8. Amendments and alterations to certificate of organization, how made. 1923, c. 88, § 8. The certificate of organization may be altered or amended at any regular meeting or any special meeting called for that purpose. An amendment must first be approved by two-thirds of the directors and adopted by a vote representing a majority of all the members of the association. Amendments to the certificate of organization, when so adopted, shall be filed in accordance with the provisions of the general corporation law.

Sec. 9. By-laws to be adopted; provisions of. 1923, c. 88, § 9. Each association incorporated under this act shall within thirty days after its organization, adopt for its government and management, a code of by-laws, not inconsistent with the powers granted by this act. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such by-laws. Each association, under its by-laws, may provide for any or all of the following matters:

(a) The time, place, and manner of calling and conducting its meetings.

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- (b) The number of stockholders or members constituting a quorum.
- (c) The right of members or stockholders to vote by proxy or by mail or both; and the conditions, manner, form, and effect of such votes.
- (d) The number of directors constituting a quorum.
- (e) The qualifications, compensation, duties, and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof.
- (f) Reasonable penalties for violations of the by-laws.
- (g) The amount of entrance, organization, and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.
- (h) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charges, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and manner of collection; and the marketing contract between the association and its members or stockholders, which every member or stockholder may be required to sign.
- (i) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and of the shares of common stock; the conditions upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; the mode, manner, and effect of the expulsion of a member; the manner determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interests in the association and fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal.

Sec. 10. Meetings; regular and special, how called. 1923, c. 8, § 10. In its by-laws, each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and not less than ten per cent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting shall thereupon be called by the directors. Notice of each meeting, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting; provided, however, that the by-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

Sec. 11. Directors; salaries; vacancies. 1923, c. 88, § 11. The business of the association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number. The by-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts, either directly or by district delegates elected by the members in that district, and in such case the by-laws shall specify the number of directors to be elected by each district, and the manner and method of reapportioning the

directors and of redistricting the territory covered by the association. The by-laws may provide that primary elections shall be held in each district, to elect the directors apportioned to such districts, and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be deemed the act of the association. The by-laws may provide that one or more directors may be appointed by any public official or commission or by the other directors selected by the members or their delegates; such directors shall represent primarily the interest of the general public in such associations and need not be members or stockholders of the association; but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.

An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded each member or holder of common stock of the association or others, or upon terms differing from those generally current in that district.

The by-laws may provide that no director shall occupy any position in the association, on regular salary or substantially full-time pay, except in the cases of president and secretary.

The by-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of that board.

When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the by-laws provide for an election of directors by districts, and in such a case the board of directors shall immediately call a special meeting of the members, or stockholders, to fill the vacancy, in the district where it exists.

Sec. 12. Officers; eligibility. 1923, c. 88, § 12. The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary, who shall be the clerk of the corporation, and a treasurer, who need not be directors or members of the association; and they may combine the two latter offices and designate the combined office as that of secretary-treasurer; or unite both functions and titles in one person. The treasurer may be a bank or any depository, and as such, shall not be considered as an officer, but as a function, of the board of directors, and in such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as and where authorized by the board of directors, and whenever there is a change in the office of clerk, the clerk shall file a certificate of his election as provided by section twenty-four of chapter fifty-five, and an attested copy of such certificate shall be sufficient evidence that he is clerk, for service of process upon the corporation, until another certificate has been filed.

Sec. 13. Officers, employees, and agents handling funds to be bonded. 1923, c. 88, § 13. Each officer, employee, and agent handling funds or negotiable instruments or property of or for any association created hereunder shall be required to execute and deliver to the association a bond, satisfactory to the board of directors, for the faithful performance of his duties and obligations.

Sec. 14. Certificate of membership; stock, when issued; liability of stockholders; limitation of ownership; voting rights; preferred stock; limitation on transfer of common stock. 1923, c. 88, § 14. When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership.

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No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note; but such retention as security shall not affect the member's right to vote.

No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note given in payment therefor.

No stockholder of a co-operative association shall own more than one-twentieth of the common stock of the association; and an association, in its by-laws, may limit the amount of common stock which one member may own to any amount less than one-twentieth of the common stock.

No member or stockholder shall be entitled to more than one vote, regardless of the number of shares of common stock owned by him.

Any association organized with stock under this act may issue preferred stock, with or without the right to vote. Such stock may be sold to any person, member, or non-member, and may be redeemable or retireable by the association on such terms and conditions as may be provided in the certificate of organization and printed on the face of the stock certificate. The by-laws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions shall be printed upon every certificate of stock subject thereto.

The association may, at any time, as specified in the by-laws, except when the debts of the association exceed fifty per cent of the assets thereof, buy in or purchase its common stock at the book value thereof, as conclusively determined by the board of directors, and pay for it in cash within one year thereafter.

Sec. 15. Removal of officers and directors. 1923, c. 88, § 15. Any member may bring charges against an officer or director, by filing them in writing with the secretary of the association, together with a petition signed by not less than five per cent of the members, requesting the removal of that officer or director. The removal shall be voted upon at the next regular or special meeting of the association and, by vote of a majority of the members, the association may remove such officer or director and fill the vacancy created by such removal. The director or officer against whom such charges have been brought shall, previous to the meeting for action on charges preferred against him, be informed in writing of such charges and have opportunity at such meeting to be heard in person, or by counsel, and to present witnesses; and the person or persons bringing the charges shall have the same opportunity.

In case the by-laws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by not less than twenty per cent of the members residing in the district from which he was elected. The board of directors shall call a special meeting of the members residing in that district to consider the removal of the director; and by a vote of a majority of the members of that district, the director in question may be removed from office.

Sec. 16. Referendum. 1923, c. 88, § 16. Upon demand of one-third of the entire board of directors, made immediately and so recorded (at the same meeting at which the original motion was passed), any matter of policy that has been approved or passed by the board shall be referred to the entire membership or the stockholders for decision at the next special or regular meeting, and a special meeting may be called for the purpose.

Sec. 17. Marketing contracts. 1923, c. 88, § 17. An association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over ten years, all or any specified part of their agricultural products or specified commodities exclusively to or through the association, or any facilities to be created by the association. If they contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly to the association upon delivery except for legally recorded chattel mortgages given for value and prior to the first day of July in any season on such products or commodities whether such mortgages are given before or after the making of such contract of sale. The contract may provide, among other things, that the association may sell or re-sell the products delivered by its members, with or without taking title thereto; and pay over to its members the re-sale price, after deducting all necessary selling, overhead, and other costs and expenses, including interest or dividends on stock, not exceeding eight per cent per annum, and reserves for retiring the stock, if any; and other proper reserves; and for any other deductions.

Sec. 18. Remedies for breach of contracts; by-laws may fix liquidated damages; injunctions to restrain breaches of contract. 1923, c. 88, § 18. (a) The by-laws or the marketing contract may fix, as liquidated damages, a specific sum to be paid by a member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member shall pay all costs, premiums for bonds, expenses, and fees, in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties.

(b) In the event of any such breach or threatened breach of such marketing contract by a member, the supreme judicial court may restrain by injunction further breach of the contract and may decree specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the said court may grant a temporary restraining order and preliminary injunction against the member.

(c) In any action upon such marketing agreement, it shall be conclusively presumed that a landowner or landlord or lessor is able to control the delivery of products produced on his land by tenants or others, whose tenancy or possession or work on such land, or the terms of whose tenancy or possession or labor thereon, were created or changed after execution by the landowner or landlord, or lessor, of such a marketing agreement; and in such action, the foregoing remedies for non-delivery or breach shall lie and be enforceable against such landowner, landlord or lessor.

Sec. 19. Acquiring stock or property of other corporations, persons, or firms, how effected. 1923, c. 88, § 19. Whenever an association, organized hereunder with preferred capital stock, shall purchase the stock or any property, or any interest in any property, of any person, firm, corporation, or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred capital stock to an amount which at par value would equal the fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued.

Sec. 20. Annual report. 1923, c. 88, § 20. Each association formed under

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this act shall prepare and submit to its annual meeting an annual report containing the name of the association, its principal place of business; a general statement of its business operations during the fiscal year, showing the amount of capital stock paid for and the number of stockholders, if a stock association, or the number of members and amount of membership fees received, if a non-stock association; the total expenses of operation; the amount of its indebtedness or liabilities, and its balance sheets.

Sec. 21. Use of word "co-operative," limited. 1923, c. 88, § 22. No person, firm, corporation, or association, hereafter organized or hereafter undertaking to do business in this state, as a farmers' marketing association for the sale of farm products, shall be entitled to use the word "co-operative" as part of its corporate or other business name or title, unless it has complied with the provisions of this act.

Sec. 22. May have interests in other corporations or associations. 1923, c. 88, § 23. An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling the agricultural products handled by the association, or by-products thereof.

If such corporations are warehousing corporations, they may issue legal warehouse receipts of the association against the commodities delivered, and such legal warehouse receipts shall be considered as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case such warehouse is licensed, or licensed and bonded, under the laws of this or any other state or the United States, its warehouse receipt delivered to the association on commodities of the association or its members, or delivered by the association or its members, shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association.

Sec. 23. May have contracts and agreements with other associations. 1923, c. 88, § 24. Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements, contracts, and arrangements with any other co-operative corporation, association, or associations, formed in this or in any other state, for the co-operative and more economical carrying on of its business or any part or parts thereof. Any two or more associations may, by agreement, unite in employing and using or may separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective businesses.

Sec. 24. Rights and remedies apply to similar associations of other states. 1923, c. 88, § 25. Any corporation or association heretofore or hereafter organized under generally similar laws of another state shall be allowed to carry on any proper activities, operations, and functions in this state upon compliance with the general regulations applicable to foreign corporations desiring to do business in this state, and all contracts which could be made by any association incorporated hereunder, made by or with such association shall be legal and valid and enforceable in this state with all of the remedies set forth in this act.

Sec. 25. Existing corporations and associations may adopt provisions of this act. 1923, c. 88, § 26. Any corporation or association, organized under previously existing statutes, may, by a majority vote of its stockholders or members, be brought under the provisions of this act by limiting its membership and adopting the other restrictions as provided herein. It shall make out in dupli-

cate a statement signed and sworn to by its directors to the effect that the corporation or association has, by a majority vote of the stockholders or members, decided to accept the benefits and be bound by the provisions of this act and has authorized all changes accordingly. Articles of incorporation shall be filed as required in section seven hereof, except that they shall be signed by the members of the then board of directors. The filing fee shall be the same as for filing an amendment to certificate of organization.

When any association shall be hereafter incorporated under this act, all contracts heretofore made, by or on behalf of same, by the promoters thereof, in anticipation of such associations becoming incorporated under the laws of this state, whether such contracts be made by or in the name of some corporation organized elsewhere or otherwise, and when same would have been valid if entered into subsequent to the passage of this act, are hereby validated as if made after the passage of this act.

Sec. 26. Penalty for inducing member to break contract; and for spreading false reports regarding association. 1923, c. 88, § 27. Any person or persons or any corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association organized hereunder, or organized under similar statutes of other states, with similar restrictions and rights and operating in this state under due authority, to breach his marketing contract with the association, or who maliciously and knowingly spread false reports about the finances or management or activity thereof, shall be guilty of a misdemeanor and be subject to a fine of not less than one hundred dollars and not more than one thousand dollars for each such offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars for each such offense.

Sec. 27. Warehousemen receiving member's products in violation of member's contract prohibited; penalty. 1923, c. 88, § 28. Any person, firm, or corporation conducting a warehouse within this state who solicits or persuades or knowingly permits any member of any association organized hereunder to breach his marketing contract with the association by accepting or receiving such member's products for sale or for auction or for display for sale, contrary to the terms of any marketing agreement of which said person or any member of the said firm or any active officer or manager of the said corporation has knowledge or notice, shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars for each such offense; and such association may apply to the supreme judicial court for an injunction against such warehouseman to prevent further breaches and a multiplicity of actions thereon. In addition said warehouseman shall pay to the association a reasonable attorney's fee and all costs involved in any such litigation or proceeding at law.

This section is enacted in order to give marketing associations an adequate remedy in the courts against those who encourage violations of co-operative contracts.

Sec. 28. Organization under this act not deemed to be in restraint of trade, conspiracies or illegal monopolies. 1923, c. 88, § 29. No association organized hereunder and complying with the terms hereof shall be deemed to be a conspiracy or a combination in restraint of trade or an illegal monopoly or an attempt to lessen competition or to fix prices arbitrarily; and the marketing contracts and agreements between the association and its members and any agreements authorized in this act shall not be deemed illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose.

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Sec. 29. Provisions of general corporation laws applicable. 1923, c. 88, § 31. The provisions of the general corporation laws of this state and all powers and rights thereunder shall apply to the associations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this act.

Sec. 30. Filing and recording of marketing agreements. 1925, c. 213, § 2. The association may file for record an original or an authenticated copy of an executed marketing agreement in the office of the register of deeds in the county, where the property is produced, or if there be several registry districts in a county, then in the registry district where the property is produced. The register shall record such agreement in a book kept for that purpose, noting therein, and on the agreement, the time when it was received; and it shall be considered as recorded when received. After the filing of such agreement, the association may, in lieu of filing all other agreements obtained from its members, cause to be filed an affidavit prepared and signed by its secretary or other officer reciting that the association has executed other marketing agreements similar thereto giving the names and addresses of the members party thereto, the date on which the contracts were executed by the members, and the date of expiration if different from those of the recorded agreement; and such affidavit, when filed by the association with the register shall be recorded along with the marketing agreement. Such association may from time to time file for record supplemental affidavits covering additional marketing agreements.

Sec. 31. Effect of filing and recording to convey notice. 1925, c. 213, § 3. The filing and recording of such agreements or affidavits shall convey full notice of the existence of the various agreements and of the rights, claims, and interest of such association in the crops covered thereby.

Sec. 32. Liens on crops before delivery, rights of lienholders; duties of members in relation to delivery to association. 1925, c. 213, § 4. Whenever a crop has not yet been delivered by the members to such association under the terms of such recorded marketing agreement, and a decree of court has not been issued requiring delivery of the crop to the association, a lien shall attach to such crop in favor of any person, firm, partnership, or association who under the laws of this state would be entitled to such a lien in case no such marketing agreement concerning such crop existed. But such a lien shall be subject to the limitation that it shall not entitle such lienholder to possession, use, enjoyment, or disposition of such crop as against such member, or association, or one holding under them; nor shall it entitle such lienholder to the incidents and remedies of such lien whereby the member would be deprived of full possession, use, enjoyment, and disposition of such crop so far as is necessary to the further production and delivery of such crop in prospective fulfillment or in performance of his marketing agreement; nor shall it deprive such association of its rights under the marketing agreements to demand possession and enforce by appropriate legal procedure its right to possession of such crop.

Provided, however, that whenever such crop shall not be so far produced as to entitle such association to delivery by the member under the terms of the marketing agreement, and on failure of such member to continue producing after reasonable opportunity and written notice given by the lienholder to such member, such lienholder may exercise any right or remedy against such crop under its lien in the same manner and with the same force and effect as if such marketing agreement did not exist. But when such crop thereafter is produced, it must be delivered to the association for marketing, regardless of the rights accrued thereto.

And provided further, whenever such crop shall be so far produced as to entitle such association to delivery under its marketing agreement, and whenever such member in violation fails to deliver such crop under the terms thereof, such association must within a reasonable time take steps to commence an appropriate action for delivery of the crop in specie; else, after written demand on such association at its main office by such lienholder, if the association fails to act, such lienholder may exercise any right or remedy under its lien in the same manner and with the same force and effect as if such marketing agreement did not exist.

And provided further, that, if said association is united with other associations organized under a similar agreement for similar purposes and the business of said association is transacted through a central agency, in that event such written demand shall be made on said central agency at its main office instead of on said association.

Sec. 33. Lien attaches to members claim against association after delivery of crop. 1925, c. 213, § 5. Whenever such crop shall be delivered to the association under its marketing agreement, or a decree of court shall be issued requiring delivery of the crop to the association, then and thereafter, a lienholder who has acquired a lien subsequent to the filing and recording of the marketing agreement or affidavit covering such crop and prior to the date of the expiration thereof, shall be no longer entitled to any lien, interest in, or claim against such crop, but he shall instead acquire a lien on the claim of the member against the association for the net proceeds of sales by the association, whether specific proceeds or prorated proceeds of graded or other pools, or against the member's net interest in the association through his delivery of the commodity under the marketing agreement. The rights of the lienholder shall be subject to all the limitations and restrictions as to the sale, disposal, or use of such crop or the net proceeds thereof as are imposed on the member by the recorded marketing agreement.

Sec. 34. Filing of statement of lien claim. 1925, c. 213, § 6. Any person entitled to a lien under this act, shall, so far as is consistent with this act, within the time and in the manner prescribed elsewhere by the law of this state, file a verified statement or other evidence and perform all acts such as are required by law for perfecting and enforcing the respective lien which would arise under similar facts in the absence of this statute.

Sec. 35. Lienholder must give notice to association of existence of lien claim. 1925, c. 213, § 7. When a lien or contract for a lien arises by the will or mutual agreement of the member and the lienholder, the lienholder, in order to effect a lien under this act, must give written notice to the association at its main office of the agreement at the time of entering into it and of the lien at the time of its arising. When a lien arises other than by the will of the parties or by mutual agreement, the lienholder must give notice to the association at its main office of the lien at the time of the default of the member giving rise thereto. Provided, however, that, if the affairs of said association are being conducted through such central agency as set forth in section thirty-three of this act, all notices hereunder shall be given to said central agency at its main office.

Sec. 36. Association must sell and deliver proceeds within ten months; advance payments must be paid to lienholder. 1925, c. 213, § 8. The association must within ten months of the delivery of a crop, sell such crop or a similar crop, and make payment to the lienholders out of the proceeds of such sale after deductions therefrom as provided by the marketing agreement. During such period and up to the time of such sale, advance payments due the member must be paid to the lienholder up to the amount of his lien. If such advance pay-

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ments exceed the final net distribution, the association may recover from such member the amount of the excess. Nothing herein shall cause an association to be liable to any person in case a crop is not delivered to it, or obligate it to sell any greater amount of any crop than is required to pay off such lien; nor shall any association in any case be liable for a greater amount than the net proceeds of the sale of any crop less deductions as provided by the marketing agreement.

Sec. 37. Enforcement of lienholder's claim; procedure; defences available to association; limitation of action. 1925, c. 213, § 9. In case of refusal of such association to pay over the proceeds of the sale of such crop under the conditions prescribed above, such lienholder may by appropriate civil action joining the member and association bring suit for the recovery of the value of his lien. Any judgment in such action shall run solely against the association, and satisfaction thereof by the association shall acquit and discharge it from any claims of or liability to the member up to the amount of the judgment. In such action the association may interpose any defense available to itself or to the member. Provided, however, that nothing in this act shall operate so as to deprive such lienholder of any action allowed him by law against such member for recovery of the debt secured by the lien; and provided further that any right of action arising under this act or otherwise shall be limited by statutes of limitation prescribed by law for the enforcement of liens which would arise under similar facts in the absence of this act.

Sec. 38. Association to file bond with secretary of state in order to come under provisions of act; amounts of bonds how fixed. 1925, c. 213, § 11. No association shall come under the terms of this act unless and until the association shall have deposited with the secretary of state annually, to be payable to and approved by him and subject to increase on his demand in case of depletion thereof, a good and sufficient bond with sureties or a surety company authorized to do business in the state, in the following amounts: When the total gross value of business done by the association in the next previous calendar year shall have been less than one million dollars, the bond shall be fifty thousand dollars; when greater than one million dollars but less than two and one-half million dollars, the bond shall be seventy-five thousand dollars; when two and one-half million dollars or over, the bond shall be one hundred thousand dollars. Such bond shall be conditioned that the association will fulfill all of its obligations as provided for by this act, and it shall serve as security for the payment of judgments obtained by lienholders against the association under the terms of this act. The bond for the first year in which any co-operative shall conduct any business shall be in the amount of fifty thousand dollars. Provided, however, that, if the affairs of the association are being conducted through such central agency as set forth in section thirty-three of this act, the bond provided for by this section shall be given by said central agency for and in behalf of itself and all associations whose affairs are conducted through such central agency so that said central agency shall annually be required to furnish but one bond for itself and all such associations. Such bond so given by said central agency shall be binding on all such associations and contain the same conditions, serve as security for the same payments, and the amounts of said bond shall be in the same amounts, as above set forth, as determined by the total gross value of business done through said central agency in the next previous calendar year.

Sec. 39. Penalty for enforcing lien in violation of this act; lienholder liable in civil damages. 1925, c. 213, § 12. Any lienholder, who, in violation of this

act, shall knowingly and wilfully seize or receive or cause to be seized or received any crop, or who shall knowingly and wilfully enforce or attempt to enforce except by appropriate civil process a lien against such crop contrary to this act shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars and not more than one thousand dollars for each offense; and shall be liable to the association aggrieved in a civil suit in the penal sum of five hundred dollars for each offense.

Sec. 40. Unconstitutionality of part of act not to invalidate remainder. 1923, c. 38, § 30. 1925, c. 213, § 13. If any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Sec. 41. Applicable provisions of law relating to liens to apply. 1925, c. 213, § 14. All provisions of law relating to liens shall apply to crops covered by marketing agreements, except where such provisions are inconsistent with the provisions of this act, in which case any such provisions shall be construed as not applying to the liens herein provided for.

CHAPTER 59.

Insurance and Insurance Companies.

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- Section 179 Dividend payable at Agent's Office.

The Contract of Insurance, and Its Issue by Incorporated Companies.

Sec. 1. Contract of insurance, defined; business carried on by corporations; Lloyd's. R. S. c. 53, § 1. A contract of insurance, life excepted, is an agreement by which one party for a consideration promises to pay money or its equivalent, or to do some act of value to the assured upon the destruction or injury of something in which the other party has an interest. And the business involving the issuance of such contracts in this state shall be carried on only by duly incorporated insurance companies. All incorporated insurance companies may exercise the powers and are subject to the duties and liabilities contained herein and in chapter fifty-five, so far as consistent with their charters. Associations of individuals now formed or which may hereafter be formed, upon the plan known as Lloyd's, for the purpose of transacting marine insurance business, may exercise all rights, powers, and privileges granted under the laws of this state.

See § 95; 99 Me. 276; 101 Me. 297; 109 Me. 484.

Sec. 2. Number of directors; tenure; vacancies. R. S. c. 53, § 2. The busi-

ness of incorporated insurance 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; they shall be stockholders, and hold their offices for one year, and until others are chosen and qualified in their stead. Vacancies may be filled at a meeting called for the purpose. In elections and other business, stockholders have one vote for each share. The directors shall choose one of their number president.

Sec. 3. Directors may be divided into classes; terms of office; vacancies.
R. S. c. 53, § 3. All insurance companies, stock or mutual, established in 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 are 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-laws 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.

The Standard Fire Insurance Policy.

Sec. 4. Only policies of standard form may be issued; exceptions. **R. S. c. 53, § 4.** No fire insurance company shall issue fire insurance policies on property in this state, other than those of the standard form set forth in the following section, except as follows:

I. A company may print on or in its policies its name, location, and date of incorporation, the amount of its paid-up capital stock, the names of its officers and agents, the number and date of the policy, and, if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at

II. A company may print or use in its policies, printed forms of description and specification of the property insured.

III. A company insuring against damage by lightning may print, in the clause enumerating the perils insured against, the additional words, "Also any damage by lightning whether fire ensues or not," and, in the clause providing for an apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

IV. A company incorporated or formed in this state may print in its policies, any provisions which it is authorized or required by law to insert therein; and any company not incorporated or formed in this state may, with the approval of the insurance commissioner, so print any provision required by its charter or deed of settlement or by the laws of its own state or country, not contrary to the laws of this state; provided, that the insurance commissioner shall require any provision which, in his opinion, modifies the contract of insurance in such way as to affect the question of loss, to be appended to the policy by a slip or rider as hereinafter provided.

V. The blanks in said standard form may be filled in print or writing.

VI. A company may write upon the margin or across the face of a policy, or write, or print in type not smaller than long primer, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form; and all such slips, riders, and provisions must be signed by the officers or agent of the company so using them.

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VII. A company may print upon policies issued in compliance with the preceding provisions of this section, the words, "Maine standard policy."

97 Me. 591; 100 Me. 486; 101 Me. 297; 106 Me. 347; 112 Me. 52, *530, 537; *114 Me. 416.

Sec. 5. Form of standard policy. R. S. c. 53, § 5. The said standard form of policy shall be plainly printed, and no portion thereof shall be in type smaller than long primer, and shall be as follows:

"Number _____ \$ _____
(Corporate name of the company or association, its principal place or places of business.)

This company shall not be liable beyond the actual value of the insured property at the time any loss or damage happens.

In consideration of _____ dollars to it paid by the insured, hereinafter named, the receipt whereof is hereby acknowledged, does insure _____ and legal representatives against loss or damage by fire, to the amount of _____ dollars.

(Description of property insured.)

Bills of exchange, notes, accounts, evidences and securities of property of every kind, books, wearing apparel, plate, money, jewels, medals, patterns, models, scientific cabinets and collections, paintings, sculpture and curiosities are not included in said insured property, unless specially mentioned.

Said property is insured for the term of _____, beginning on the _____ day of _____, in the year nineteen hundred and _____, at noon, and continuing until the _____ day of _____, in the year nineteen hundred and _____, at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotions, riots or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, but not to include loss or damage caused by explosions of any kind unless fire ensues, and then to include that caused by fire only.

This policy shall be void if any material fact or circumstance stated in writing has not been fairly represented by the insured, or if the insured now has or shall hereafter make any other insurance on the said property without the assent in writing or in print of the company, or if, without such assent, the said property shall be removed, except that, if such removal shall be necessary for the preservation of the property from fire, this policy shall be valid without such assent for five days thereafter, or if, without such assent, the situation or circumstances affecting the risk shall, by or with the knowledge, advice, agency, or consent of the insured, be so altered as to cause an increase of such risks, or if, without such assent, the said property shall be sold, or this policy assigned, or if the premises hereby insured shall become vacant by the removal of the owner or occupant, and so remain vacant for more than thirty days without such assent, or if it be a manufacturing establishment, running in whole or in part extra time, except that such establishments may run in whole or in part extra hours, not later than nine o'clock P. M., or if such establishments shall cease operations for more than thirty days without permission in writing indorsed hereon, or if the insured shall make any attempt to defraud the company, either before or after the loss, or if gunpowder or other articles subject to legal restriction shall be kept in quantities or manner different from those allowed or prescribed by law, or if camphene, benzine, naphtha, or other chemical oils or burning-fluids shall be kept or used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal-oil, may be used for lighting, and in dwelling-houses,

kerosene oilstoves may be used for domestic purposes, to be filled when cold, by daylight, and with oil of lawful fire test only.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy, a statement in writing, signed and sworn to by the insured, shall be within a reasonable time rendered to the company setting forth the value of the property insured, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used and the time at which and manner in which the fire originated, so far as known to the insured. The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement, as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount if not agreed upon shall be ascertained by award of referees as hereinafter provided, or replace the property with other of the same kind and goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises, or any portion thereof separately insured by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of the loss sustained than the sum hereby insured bears to the whole amount insured thereon. And whenever the company shall pay any loss, the insured shall assign to it, to the extent of the amount so paid, all rights to recover satisfaction for the loss or damage from any person, town, or other corporation, excepting other insurers; or the insured, if requested, shall prosecute therefor at the charge and for the account of the company.

If this policy shall be made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee or his agents, or those claiming under him, shall affect such mortgagee's right to recover in case of loss on such real estate; provided, that the mortgagee shall, on demand, pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy, for which no liability exists as to the mortgagor, or owner, and this company shall elect by itself, or with others, to pay to the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the companies interested, upon such payment, the said mortgage, together with the note and debt thereby secured.

This policy may be cancelled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force. The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

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In case of loss under this policy and a failure of the parties to agree as to the amount of loss, it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one out of the three persons to be named by the other, and the third being selected by the two so chosen; the award in writing by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference unless waived by the parties, shall be a condition precedent to any right of action in law or equity to recover for such loss; but no person shall be chosen or act as a referee against the objection of either party, who has acted in a like capacity within four months.

No suit or action against this company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this state unless commenced within two years from the time the loss occurred.

In witness whereof, the said company has caused this policy to be signed by its president, and attested by its secretary, or by such proper officers as may be designated, at their office, in . Date .”

As to standard form, 97 Me. 591.

As to “rider,” *100 Me. 484; 106 Me. 347.

As to cancelation, 89 Me. 32; 106 Me. 232; *108 Me. 509; 112 Me. 530, 537; 115 Me. 196.

As to arbitration clause, 85 Me. 73; 87 Me. 193; 95 Me. 486; 97 Me. 591; 101 Me. 297; 104 Me. 372; 106 Me. 309; 112 Me. 53; *122 Me. 364.

Notice of other insurance, 94 Me. 43; 107 Me. 320.

Increase of risk, 100 Me. 484.

Vacancy, 100 Me. 486.

Alienation, 107 Me. 320.

Levy and collection of assessment not waiver of forfeiture, 37 Me. 137; 38 Me. 439; 100 Me. 481; 107 Me. 323.

Fraud and false swearing, 82 Me. 270; 88 Me. 498; 90 Me. 350; 91 Me. 290; 92 Me. 279; 100 Me. 112; 108 Me. 402.

Waiver, 108 Me. 510.

Sec. 6. Cancelation of policy for non-payment of premium. R. S. c. 53, § 6.

An insurance company issuing fire insurance policies on property in this state, under the standard form required by sections four and five of this chapter, may cancel any such policy in the manner provided by law without tendering to the assured a ratable proportion of the premium, if the premium has not been paid to the company or its agent, or to a duly licensed insurance broker through whom the contract of insurance was negotiated.

Sec. 7. Notification to policy-holders attached to policy. R. S. c. 53, § 7.

There shall be printed on the margin of the policy near the part thereof that relates to cancelation, in type not smaller than long primer, or attached to such policy by rider in the form permitted by law the following: “If the premium on this policy has not been paid to the company or its agent, or to the duly licensed insurance broker through whom the contract of insurance was negotiated, this policy may be canceled by the company in the manner herein provided without tendering to the assured any part of the premium.”

Sec. 8. Proceedings in case parties fail to agree as to amount of loss. R. S. c. 53, § 8.

In case of loss under any fire insurance policy, issued on property in this state, in the standard form set forth in section five, and the failure of the parties to agree as to the amount of loss, if the insurance company shall not, within ten days after a written request to appoint referees under the provision for arbitration in such policy, name three men under such provision, each of whom shall be a resident of this state, and willing to act as one of such referees; or if such insurance company shall not, within ten days after receiving the names of three men named by the insured under such provision, make known to the insured its

choice of one of them to act as one of such referees, it shall be deemed to have waived the right to an arbitration under such policy, and be liable to suit thereunder, as though the same contained no provision for arbitration as to the amount of loss or damage. And in case of the failure of two referees, chosen, respectively by the insurance company and the insured, to agree upon and select within ten days from their appointment a third referee willing to act in said capacity, either of the parties may within twenty days from the expiration of said ten days make written application setting forth the facts to the insurance commissioner to appoint such third referee, and said commissioner shall thereupon make such appointment and shall send written notification thereof to the parties.

101 Me. 294; 106 Me. 309; 112 Me. 54; 120 Me. 1.

Sec. 9. Relating to time limit for adjusting and paying fire losses; penalty.

R. S. c. 53, § 9. In case of loss or damage to property insured by any fire insurance company transacting business in this state, said company or its representative shall begin adjustment of such loss within twenty days after the receipt of the notice provided for by section five of this chapter; but no fire insurance company shall pay any loss or damage until after the expiration of forty-five days from the date when proof of loss is executed; provided that nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under policies covering the risk does not exceed one hundred dollars; provided, also, that upon application from an insurance company or its authorized representative, written permission to make earlier payment on any loss may be given said company or its authorized representative by the insurance commissioner, and immediately upon issuing such permit, the insurance commissioner shall notify and grant permits to any other companies known to be interested in the risk. For any violation of this section the insurance commissioner may suspend the authority of the company to transact business in this state for such length of time, not exceeding one year, as he may deem advisable.

122 Me. 239.

Sec. 10. Penalty for wilful violation of §§ 4, 5. R. S. c. 53, § 10. Any insurance company or agent who shall make, issue, or deliver a policy of fire insurance in wilful violation of sections four or five shall forfeit for each offense not less than fifty, nor more than two hundred dollars; but such policy shall nevertheless be binding upon the company issuing the same.

Standard Provisions for Accident and Health Policies.

Sec. 11. Form of health or accident policy must be filed with insurance commissioner for approval; not to be delivered until thirty days after filing unless sooner approved. R. S. c. 53, § 11. No policy of insurance against loss or damage from the sickness, or the bodily injury, or death of the insured by accident, shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto have been filed with the insurance commissioner; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society, or other insurer which has filed such form that it does not comply with the requirements of law, or in his opinion any particular section or clause is objectionable, and specify the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the commissioner shall be subject to review by any justice of the supreme judicial court.

119 Me. 130.

Sec. 12. Conditions under which policy may be issued. R. S. c. 53, § 12. No such policy shall be so issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) unless every printed portion thereof and of any indorsements or attached papers shall be plainly printed in type of which the face shall be not smaller than ten-point; nor (4) unless a brief description thereof be printed on its first page, and on its filing-back in type of which the face shall be not smaller than fourteen-point; nor (5) unless the exceptions of the policy be printed with the same prominence as the benefits, to which they apply; provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold-face type and with greater prominence than any other portion of the text of the policy.

119 Me. 139.

Sec. 13. Policy must have correct copy of application attached. R. S. c. 53, § 13. Every accident, health, or casualty policy of insurance issued to a resident of this state by any insurance company, assessment association or fraternal order, which contains a reference to the application of the insured, either as a part of the policy or as having any bearing thereon, shall have attached thereto a correct copy of the application, and unless such copy is so attached, the application shall not be considered a part of the policy or received in evidence.

Sec. 14. Penalty for false statement in application. R. S. c. 53, § 14. Any person who knowingly or wilfully makes a false or fraudulent statement or representation in, or relative to any application for accident, health or casualty insurance, or who makes any such statement for the purpose of obtaining a fee, commission, money, or benefit in a corporation transacting such business in this state, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment for not less than thirty days nor more than one year, or by both such fine and imprisonment; and a person who wilfully makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a policy or certificate holder in any such corporation, for the purpose of procuring payment of a benefit named in the certificate of such holder, shall be guilty of perjury.

Sec. 15. Time within which notice of accident, injury, or death may be given. R. S. c. 53, § 15. No conditions, stipulations, or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance company, or in any way made by any such company, limiting the time within which notice of the accident or injury, or death, shall be given to such company, to a period of less than thirty days after the happening of the accident or injury, or death, shall be valid. Said notice may be given to the company insuring, within a reasonable time after the happening of the accident or injury, or death, and shall be valid and binding on the company.

89 Me. 99; 90 Me. 185; *99 Me. 231.

Stock Companies.

Sec. 16. Secretary and other officers. R. S. c. 53, § 16. Every stock company or its directors, as often as once a year, shall, by ballot, elect a secretary, who shall be the clerk of the company and be 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.

65 Me. 379.

Sec. 17. Manner of calling meetings. R. S. c. 53, § 17. 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. 18. Capital. R. S. c. 53, § 18. No insurance company shall be incorporated 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. 19. Liability of stockholders, in certain cases. R. S. c. 53, § 19. 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. 20. Capital and assets, how to be invested. R. S. c. 53, § 20. 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 such manner and in such funds, stocks and bonds, as savings banks of this state may invest in, as provided in section twenty-seven, of chapter fifty-six, and said insurance companies shall be restricted in their investments in the same manner as are the savings banks of this state.

Sec. 21. Loans on respondentia or bottomry. R. S. c. 53, § 21. Such company may loan to citizens of 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.

118 Me. 118.

Sec. 22. What property may be insured; limit of risk. R. S. c. 53, § 22. Such company may make insurance on vessels, freight, money, goods, and effects, or money lent on bottomry and respondentia, against fire on dwellings 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.

56 Me. 376; see § 55, ¶ ii.

Sec. 23. Furniture, owned part by husband and part by wife. R. S. c. 53, § 23. Insurance effected by a husband or wife on a dwelling-house owned by the insured and on the furniture therein, is valid for all the furniture, although part is owned by the husband and part by the wife.

Sec. 24. Policies, how executed. R. S. c. 53, § 24. 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.

*56 Me. 377.

Sec. 25. Companies, not to trade. R. S. c. 53, § 25. Said company shall not, directly or indirectly, be concerned in buying or selling any goods, wares, merchandise, or commodities.

Sec. 26. Dividends. R. S. c. 53, § 26. The directors, at such times as their

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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.

118 Me. 118.

Sec. 27. Loss of capital. R. S. c. 53, § 27. After 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 is restored.

Sec. 28. Marine companies may divide certain profits. R. S. c. 53, § 28. Any marine insurance company may, by by-laws or votes duly passed for that purpose, divide among the stockholders 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 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 a year, shall first be paid.

Sec. 29. Triennial statements. R. S. c. 53, § 29. 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.

Sec. 30. Not to insure, after loss of capital. R. S. c. 53, § 30. If the company sustains losses to an amount equal to 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.

Sec. 31. Person deemed agent; notice to him, binding. R. S. c. 53, § 31. An agent authorized by an insurance company, whose name is borne on the policy, is its agent 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.

See § 119; 47 Me. 386; 49 Me. 203; 52 Me. 324; 54 Me. 170; *56 Me. 379; 59 Me. 433; 69 Me. 410; 70 Me. 539; 77 Me. 149; 88 Me. 107; 114 Me. 12, 170.

Sec. 32. Certain provisions not to be applied to mutual companies. R. S. c. 53, § 32. 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 twenty-one and twenty-two are not applicable to mutual fire insurance companies; but the other preceding provisions and the following are binding on such companies, so far as is consistent with their charters.

61 Me. 416.

Mutual Companies.

Sec. 33. Insurance by mutual companies regulated. R. S. c. 53, § 33. 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 furniture, merchandise, and other property, the contents of any building within the state, against loss or damage by fire originating in any cause other than by design on the part of the assured.

109 Me. 488.

Sec. 34. Indorsements on policies. R. S. c. 53, § 34. Every such company shall cause to be printed or written on the outside of every policy that it issues,

under the number, name of the insured, and date of the expiration, the words, "Total liability to assessment," and the figures showing such liability.

Sec. 35. Insured to be members. R. S. c. 53, § 35. Every person insured by such company, or his legal representatives or assigns continuing to be insured therein, is a member of the company during the term specified in his policy, and no longer.

37 Me. 143; 100 Me. 481; 117 Me. 516.

Sec. 36. Assessments on premium notes and contracts of insurance; limits of liability to be stated. R. S. c. 53, § 36. 1921, c. 84. The insured, before receiving his policy, shall deposit his note for the sum determined by the directors, which shall not be less than five per cent of the amount insured, and such part of it as the by-laws require, shall be immediately paid and endorsed thereon; and the remainder in such instalments as the directors 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. Provided, that a mutual company which collects a cash premium of not less than the tariff rate charged by stock companies may take a premium note for an equal amount and such companies shall maintain a premium reserve equal to fifty per cent of the cash premium on its policies in force. No domestic mutual insurance company shall insure in one risk an amount exceeding twenty-five per cent of its gross assets, including the amount at any time due on its premium notes. Any mutual company in place of the premium note required by law may provide in the policy of insurance as a condition of the insurance made by the policy that the insured and legal representatives shall pay in addition to the stipulated premium of such policies such sum as may be assessed by the directors of the company pursuant to the laws of this state, but such contingent liability of a member shall not be less than an amount equal to the cash premium written in his policy. The total amount of the liability of the policy-holder shall be plainly and legibly stated upon the filing back of each policy.

34 Me. 453; 49 Me. 448; 50 Me. 305; 53 Me. 226; 64 Me. 128; 100 Me. 481; *107 Me. 364.

Sec. 37. Domestic mutual fire insurance company to publish statement; penalty for neglect or refusal. R. S. c. 53, § 37. Every domestic mutual fire insurance company shall publish annually three weeks successively in some daily or weekly paper printed in the county where it is located, a condensed statement of its condition, conformable to its last annual report to the commissioner; and any such company which neglects or refuses to publish such statement, forfeits not less than fifty dollars.

Sec. 38. Liability of agents of domestic fire companies; company required to procure licenses for agents. R. S. c. 53, § 38. Any person who solicits insurance on behalf of any domestic mutual fire insurance company, or transmits for a person other than himself, an application for, or a policy of insurance to or from such company, or in any manner acts in the negotiation of such insurance, or in the inspection or valuation of the property insured shall be deemed the agent of such company and, except as hereinafter provided, shall become liable to all the duties, requirements, liabilities, and penalties to which an agent of any insurance company is subject. Said companies shall procure licenses for their agents as provided in section one hundred and twenty-one of this chapter, but no fee shall be required by the insurance commissioner for licenses issued to the agents of such companies.

Sec. 39. Policy and note one contract, and claims may be set off against it; if company fails, liability of maker; when insurance ends, note to be surrendered. R. S. c. 53, § 39. A policy of insurance, issued by a life, fire, or marine insurance

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company, domestic or foreign, and a deposit note given therefor, are one contract; and a loss under such policy, or other equitable claims, may be proved in defense of said note, though it was indorsed or assigned before it was due; and when a company becomes insolvent, the maker of the note is only 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 is 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.

48 Me. 274; 49 Me. 425; 64 Me. 128; 107 Me. 365.

Sec. 40. Lien on insured real estate, and how secured. R. S. c. 53, § 40. 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 continue 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, has priority of all other attachments or claims; and execution, when recovered, may be levied on it accordingly.

28 Me. 253; 100 Me. 481; 109 Me. 488.

Sec. 41. Remedy, if assessment is not paid. R. S. c. 53, § 41. If an assessment, made as provided in section thirty-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.

48 Me. 78.

Sec. 42. Lien continues on property of deceased persons insured; policy good for benefit of estate. R. S. c. 53, § 42. Upon the death of a member, the lien of the company remains good on the property insured to the amount due on the deposit note, and the policy descends 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.

Sec. 43. Annual statements to be made by directors. R. S. c. 53, § 43. The directors of every mutual company shall cause a detailed account of their expenses for the year preceding, the amount of property actually insured at that time, the amount due on their premium notes, and the amount of all debts due to and from the company, to be laid before the policy-holders at the annual meeting.

Sec. 44. Compensation of officers; votes by proxy, limited. R. S. c. 53, § 44. The salary or compensation for services of the directors, treasurer, and secretary, shall be fixed by the policy-holders at their annual meeting, and no policy-holder or other person is allowed more than fifteen votes by proxy.

Sec. 45. Assessments may be examined by the court on application of parties interested; adjustment of claims, when directors neglect to make assessments. R. S. c. 53, § 45. Whenever the directors of a mutual fire insurance company, or a mutual marine insurance company, make an assessment, or call on its members for money, or 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 unreasonably neglect to make an assessment or call, to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim, or the insurance commissioner, may make the application. 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.

110 Me. 493.

Sec. 46. Order of notice to parties interested and proceedings thereafter. R. S. c. 53, § 46. The court before which such petition is filed shall order notice 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 upon the return thereof, the court shall proceed to examine the assessment or call, the necessity therefor, and all matters connected therewith; 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 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, 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.

110 Me. 493.

Sec. 47. Proceedings before master or auditor. R. S. c. 53, § 47. Whenever the court appoints 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 directs, so far as he is able, to all persons liable upon said assessment or call. 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 have a right to be heard by the court, respecting the same, in the same manner as is above provided.

110 Me. 493.

Sec. 48. Assessments, when final; control of funds and payment of assessments. R. S. c. 53, § 48. When an assessment or call has been so 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 it, the amount thereof, and all formalities connected therewith. And where an assessment or call is altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call is binding upon all parties who would have been liable under it as originally made, 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 orders; and in all cases the court may control the disposal of the funds col-

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lected under these proceedings, and may issue all necessary processes to enforce the payment of such assessments against all persons liable therefor.

110 Me. 493.

Sec. 49. Assessment not sufficient, collection may be stayed by court. R. S. c. 53, § 49. Whenever it shall appear to the presiding justice of the court before which such petition is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, he may decree that no assessment shall be collected; and when, on application of the insurance commissioner, or any person interested, said justice is of opinion that further attempts to collect an assessment then partially collected will not benefit those having claims against the company, he may stay its further collection.

110 Me. 493.

Sec. 50. Procedure with domestic mutual fire insurance or assessment casualty companies, when insolvent or in hazardous condition. R. S. c. 53, § 50. Whenever any domestic mutual fire insurance company or assessment casualty company is found after examination to be insolvent, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, its creditors or to the public, or when it has wilfully violated its charter or any law of the state, or has refused to submit its books, papers, accounts, and affairs for examination, the insurance commissioner may, the attorney-general representing him, apply to any justice of the supreme judicial court, in term time or vacation, for an order directing such corporation to show cause why the insurance commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors or the public may require.

See § 86.

Sec. 51. Court may issue injunction; proceedings on hearing. R. S. c. 53, § 51. On such application, or at any time thereafter, such court may, in its discretion, issue an injunction restraining such corporation from the transaction of its business or disposition of its property, until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the insurance commissioner, or his successor in office, forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the insurance commissioner, the attorney-general representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the insurance commissioner to take possession, has been removed, and that the corporation can properly resume possession of its property and the conduct of its business.

Sec. 52. Rights of insurance commissioner upon decree of sequestration. R. S. c. 53, § 52. If on such application, the court shall direct the insurance commissioner to take possession of the property, conserve the assets of such corporation, and conduct the business of the company, the rights of the said insurance commissioner with reference to such corporation and its said assets shall be the same as those exercised by receivers and masters in chancery appointed by the courts for liquidation of insurance companies.

Sec. 53. Authority of commissioner as to special deputies, counsel and assistants. R. S. c. 53, § 53. For the purposes of this section, the insurance commissioner shall have power to appoint, under his hand and official seal, one or more special deputies as his agent or agents, and to employ such counsel, clerks, and assistants as may be by him deemed necessary, and give each of such persons such powers to assist him as he may consider wise. The compensation of such

special deputies, counsel, clerks, and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation, shall be fixed by the insurance commissioner, subject to the approval of the court, and shall, on certificate of the insurance commissioner, be paid out of the funds or assets of such corporation. The insurance commissioner may, subject to the approval of the court, make and prescribe such rules and regulations as to him shall seem proper.

Sec. 54. Removal of office and papers. R. S. c. 53, § 54. At any time after the commencement of proceedings under an order of liquidation made pursuant to the four preceding sections, the said insurance commissioner may remove the principal office of the corporation in liquidation to the city of Augusta. In event of such removal the courts shall, upon the application of the insurance commissioner, direct the clerk of the county wherein such proceeding was commenced to transmit all of the papers filed therein with such clerk, to the clerk of the county of Kennebec; and the proceedings shall thereafter be conducted in the same manner as though it had been commenced in the county of Kennebec.

Organization of Insurance Companies Under General Law.

Sec. 55. Insurance companies, how organized; rights and privileges; purposes. R. S. c. 53, § 55. Any ten or more persons, residents of the state, associated by such an agreement in writing as is hereinafter described, with the intention of constituting a corporation for the transaction of insurance business shall, upon complying with section sixty-three, become and remain a corporation with all the powers, rights and privileges and be subject to all the duties, liabilities and restrictions set forth in all the general laws relating to insurance corporations. Corporations may be organized as herein provided, upon the stock or mutual principle for the following purposes:

I. To insure against loss or damage to property and loss of use and occupancy by fire; explosion, fire ensuing; explosion, no fire ensuing; except explosion of steam boilers and fly wheels; lightning or tempest and tornadoes on land; by water and breakage or leakage or sprinklers, pumps or other apparatus erected for extinguishing fires, and of water pipes, or against accidental injury to such sprinklers, pumps, or other apparatus.

II. To insure vessels, freights, goods, money, effects, and money lent on bottomry or respondentia, against the perils of the sea and other perils usually insured against by marine insurance companies, including risks of inland navigation and transportation; also to insure against loss or damage to motor vehicles, their fittings and contents, whether such vehicles are being operated or not and wherever the same may be, resulting from accident, collision or any of the perils usually insured against by marine insurance, including inland navigation and transportation.

III. To insure against loss or damage to property of the assured, or loss or damage to the life, person or property of another for which the assured is liable, caused by the the explosion of steam boilers or their connections or by the breakage or rupture of machinery or fly wheels; and against loss of use and occupancy caused thereby.

IV. To insure any person against bodily injury or death by accident, or any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person, for which loss or damage said person, firm or corporation is responsible and to make insurance upon the health of individuals.

- V. To insure against breakage or damage to glass, local or in transit.
- VI. To insure the owners of domestic animals against loss resulting from death or injury to the animals insured and to furnish veterinary's services.
- VII. To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations.
- VIII. To insure against loss or damage by burglary, theft, or house breaking.
- IX. To carry on the business commonly known as credit insurance or guaranty.
- X. To examine titles of real estate and personal property, furnish information relative thereto and insure owners and others interested therein against loss by reason of incumbrances or defective titles.
- XI. To insure against loss or damage to automobiles except loss or damage by fire or while being transported in any conveyance, either by land or water; including loss by legal liability for damage to property resulting from the maintenance and use of automobiles.
- XII. To insure any goods or premises against loss or damage by water, caused by the breakage or leakage of sprinklers, pumps, water pipes, or plumbing and its fixtures and against accidental injury, from other cause than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures.
- XIII. To insure against loss or damage to property arising from accidents to elevators, bicycles and vehicles, except rolling-stock of railroads (from other causes than fire or lightning).
- XIV. To insure the payment of compensations and benefits under any workmen's compensation law now existing or hereafter enacted in this state, or in any other state, so far as the same may be permissible under the laws thereof.

Sec. 56. Articles of agreement; provision as to capital and guaranty fund; liability of policy holders and stockholders. R. S. c. 53, § 56. 1917, c. 12. Such agreement shall set forth the fact that the subscribers thereto associate themselves with the intention to constitute a corporation, the name by which it shall be known, the class or classes of insurance for the transaction of which it is to be constituted, the plan or principle upon which its business is to be conducted, the town or city in which it is established or located, and if a stock company, the amount of its capital stock, and if a mutual company with a guaranty capital, the amount thereof. The capital stock of a stock company organized for any of the purposes hereinbefore mentioned shall not be less than one hundred thousand dollars; a mutual company incorporated to transact any class or kind of insurance other than fire, marine or plate glass shall have a guaranty capital as provided in section fifty-seven and holders of certificates of such guaranty capital shall not receive dividends in excess of seven per cent in any one year, and in no case unless such dividends are properly earned after determining all liability as required by the insurance commissioner. Mutual companies may be incorporated to transact fire, marine and plate glass insurance and may operate in accordance with the provisions of section thirty-six, and other provisions of the laws of this state relating to such companies, provided, that they shall confine their business to not more than ten towns; mutual companies which do not so limit their business, may incorporate for any of the foregoing purposes but before doing any business they shall establish a guaranty fund or capital of not less than ten thousand dollars which may be divided into shares of not less than one hundred dollars and certificates issued therefor. A dividend not exceeding seven per cent in any one calendar year may be paid from the net earnings of the company after providing for all

expenses, losses, reserves and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section twenty and shall be deposited with the treasurer of state. When the cash and other available assets of the company are exhausted such part of said fund as may be required shall, with the approval of the insurance commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon the directors shall make good the amount so drawn by assessments upon the contingent funds or notes of the company and unless such fund is restored within six months from date of withdrawal, the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and members of such companies shall be subject to the same provisions of law relative to their right to vote as apply respectively to shareholders in stock companies and policyholders in purely mutual companies; said guaranty capital may be retired, by vote of the policy-holders, when the surplus funds of the company over and above all liabilities, including guaranty capital, shall equal or exceed the amount of such guaranty capital, or any part of said guaranty capital may be retired; provided that the amount of net surplus and guaranty fund shall not be less than ten thousand dollars. Said guaranty capital shall be retired when the net cash assets of the company equal to three times the amount of guaranty capital. Any mutual fire, marine or plate glass insurance company which has established a guaranty capital as provided herein and has obtained applications for insurance as required by section fifty-eight, shall be authorized by the insurance commissioner to write business and such company may take a premium note as provided in section thirty-six, or in lieu of said note it may charge and collect a premium in cash and by its by-laws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in his policy and in no case less than one per cent of the maximum liability of the company under said policy. The total amount of the liability of the policy-holder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members such reduction shall apply proportionally to all policies in force.

Sec. 57. Organization of mutual company; policies, when issued. R. S. c. 53, § 57. 1917, c. 110. Any mutual insurance company may be organized under the provisions of sections fifty-five to sixty-six, inclusive, with a guaranty 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 guaranty capital has been paid in, in cash, and invested as provided in section twenty. The holders of such guaranty capital may receive dividends for the like amount provided for the guaranty capital of mutual fire insurance companies in section fifty-six, and said guaranty capital may be retired in the same manner as provided in said section and amendments thereto.

Sec. 58. Amount of applications required before policies are issued. R. S. c. 53, § 58. No policy shall be issued by a purely mutual company until applications have been made in good faith, for insurance to the amount of fifty thousand dollars; and no policy shall be issued by a stock company until its capital stock has been paid in, in cash, and invested as provided in section twenty.

Sec. 59. Corporate name; objection by insurance commissioner. R. S. c. 53, § 59. Any name not previously in use by an existing corporation or company may be adopted, provided, that the words "insurance" or "mutual insur-

ance," as the business is to be conducted, constitute a part of such title. The 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.

Sec. 60. Notice of first meeting. R. S. c. 53, § 60. 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 thereof, a copy of which notice shall seven days at least before the day appointed be given to each subscriber, left at his usual place of business or residence, or deposited in the post-office, 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.

Sec. 61. Organization; record of proceedings; quorum necessary for organization. R. S. c. 53, § 61. 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 the state, and by the election in the manner provided by law, of directors and such other officers as the by-laws 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 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 vote.

Sec. 62. Officers. R. S. c. 53, § 62. The directors so chosen shall elect a president, a secretary and other officers which under the by-laws they are authorized to choose.

Sec. 63. Certificate of articles of association to be submitted to insurance commissioner and when approved, to be filed and recorded in the office of secretary of state. Certificate of organization issued and recorded. R. S. c. 53, § 63. 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 may require such other evidence as he may deem necessary. The commissioner, if it appears 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 fees or duties required by law, the secretary shall cause the same, with the indorsement thereon, to be recorded, and shall thereupon issue to said corporation a certificate in the following form:

"STATE OF MAINE.

Be it known, that whereas" [names of subscribers to the 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, 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. 19 . ." (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 state, and a duly authenticated copy of such record may be used in evidence, with like effect as the original certificate.

Sec. 64. Increase of capital stock; authority to transact business on increased capital. R. S. c. 53, § 64. Any 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 thereon, and upon payment of the fees required by section forty of chapter fifty-five, such certificate so approved shall 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 guaranty capital, may increase it in the same manner.

Sec. 65. Dividends; capital stock may be increased by amount of certificates of profits issued. R. S. c. 53, § 65. No stock insurance company organized under the laws of this 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 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 is made by any insurance company under the preceding section, a certificate thereof shall be filed with the insurance commissioner, who shall certify to the amount of the capital stock of the company so increased, as provided in said section.

Sec. 66. Office and meetings to be in state and majority of directors citizens. R. S. c. 53, § 66. All insurance companies incorporated and organized under the laws of this state, shall have their principal place of business in some city or town in the state, and a majority of the directors shall be citizens of the state. The meetings of the directors shall be held in the state.

Sec. 67. Change of location by mutual fire insurance companies. R. S. c. 53, § 67. A mutual fire insurance company organized under the laws of this

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state, at any legal meeting of its policy-holders, of which all policy-holders of record shall have been given notice as hereinafter provided, may change the location of its principal place of business from one city or town to another in this state. A copy of so much of the proceedings of such meeting as relates to such change of location certified by the secretary of said company shall be returned to the office of the insurance commissioner for his approval within thirty days after adjournment of such meeting, and when so approved, shall forthwith be filed by the company in the office of the secretary of state for record; the date of filing shall be entered on the record thereof, and when said copy, bearing the approval of the insurance commissioner, is so filed, the location shall be deemed to be changed. A notice in writing of the time and place of such meeting, stating the fact that a change of location will be considered, mailed to all policy-holders of record, postage prepaid, to their last known post-office address at least thirty days prior to the date of said meeting, shall constitute notice above required.

Rights of Assignees.

Sec. 68. Suit by assignee of policy. R. S. c. 53, § 68. 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 thereon, may be recovered in such suit, subject to any defense existing against the original party; the assignees so suing shall hold the judgment or its proceeds subject to the claims and equities of any other parties interested therein.

See c. 95, § 152; 69 Me. 411; 81 Me. 571.

Lien of Mortgagees.

Sec. 69. Lien of mortgagee upon policy. R. S. c. 53, § 69. The mortgagee of any real estate or the mortgagee of any personal property 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 when 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.

29 Me. 339; 45 Me. 453; 47 Me. 237; 51 Me. 71; 52 Me. 128; 64 Me. 217; 68 Me. 364; 76 Me. 588; *80 Me. 104; 86 Me. 521; 102 Me. 504; *125 Me. 466.

Sec. 70. Lien enforced by suit. R. S. c. 53, § 70. If the mortgagor does not so consent, the mortgagee of any real estate may, at any time within sixty days after a loss, and the mortgagee of any personal property may at any time within thirty 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, and which said suit shall be commenced and service made on such trustee within said sixty or thirty days.

64 Me. 217; 76 Me. 588; 80 Me. 104; 102 Me. 504; 107 Me. 321; *117 Me. 264; 125 Me. 467.

Sec. 71. Application of amount recovered. R. S. c. 53, § 71. 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 defense, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the suit, would be.

Sec. 72. Priority of mortgagees. R. S. c. 53, § 72. 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.

125 Me. 469.

Sec. 73. Mortgagee's policy void, unless consented to. R. S. c. 53, § 73. 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, is void, unless consented to by the company insuring the mortgagor's interest.

45 Me. 453.

Securities Deposited with Treasurer of State.

Sec. 74. Deposit of securities with treasurer of state. R. S. c. 53, § 74. When any company, incorporated in this state, desires to deposit any portion of its stocks or other securities with any officer of the state, as a prerequisite to the establishment of agencies in any other state in compliance with the law thereof, the treasurer of state shall receive such stocks or other securities and hold the same on deposit and in trust for the benefit of all the policy-holders in said company.

Sec. 75. Treasurer to furnish certificate. R. S. c. 53, § 75. 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.

Sec. 76. Interest or dividends, collected by companies; securities, how withdrawn. R. S. c. 53, § 76. He shall hold such securities on deposit in accordance with these provisions, but such company may receive and collect the interest or dividends thereon and withdraw them from time to time, on depositing in their place other securities whose market value shall be equal to the par value of those withdrawn; and the treasurer shall make such exchange, if the governor and council, upon application of the company, shall find and certify to him that the market value of the securities offered, is not less than the par value of those proposed to be withdrawn; and thereupon the treasurer shall issue a new certificate as provided in the preceding section.

Sec. 77. Return of securities. R. S. c. 53, § 77. Said 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.

Sec. 78. Same subject. R. S. c. 53, § 78. When such company desires to relinquish its business out of the state, said 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 up its securities.

Sec. 79. Deposit by accident or health stock companies. R. S. c. 53, § 79. Every stock insurance company incorporated in the state for the purpose of writing accident or health insurance, shall make and maintain a deposit, with the treasurer of state, of securities to the market value of at least one hundred thousand dollars, to be held in trust for the benefit of all the policy-holders in said company, before it shall have the right to transact any business. The treas-

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urer of state shall receive such stocks or other securities and hold the same on deposit and in trust for the benefit of all the policy-holders in said company.

Sec. 80. Certificates to be furnished. R. S. c. 53, § 80. The treasurer of state shall then furnish such company with a certificate or certificates in accordance with section seventy-five; and shall hold said securities under the provisions of the preceding section, and the provisions of section seventy-six shall be applicable thereto.

Sec. 81. Return of securities. R. S. c. 53, § 81. When any such company shall satisfy the insurance commissioner that it has no policies in force and all its obligations to policy-holders have been fully satisfied, the treasurer shall return its securities on demand.

Sec. 82. Proceedings when company fails. R. S. c. 53, § 82. If any company depositing securities as provided in sections seventy-four and seventy-nine, fails to meet its obligations to its policy-holders, while its securities are so on deposit, the treasurer of state 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. Nothing in the foregoing provisions imposes any liability on the state on account of any delinquency of said treasurer. Any company which has made such deposit, or the insurance commissioner, or any creditor of such company may at any time commence a suit in equity in the supreme judicial court against the state and other parties properly joined therein to enforce, administer, or terminate the trust created by such deposit. The process in such suit shall be served on the treasurer of state and attorney-general, who shall appear and answer on behalf of the state and perform such orders and decrees as the court may make therein.

The Insurance Commissioner, and His Duties.

Sec. 83. Commissioner, appointment, term, and duties; appointment and duties of deputy commissioner. R. S. c. 53, § 83. 1917, c. 206. An insurance commissioner, whose office shall be at the state capitol, shall be appointed by the governor and council, and shall hold his office for four years, and until his successor has been appointed and qualified, but shall not at the same time be bank commissioner. 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 fees and moneys received by him by virtue of his office, pay over the same to the treasurer of state quarterly and at the same time settle his account with the governor and council. He shall give bond to the treasurer, in the sum of five thousand dollars, for the faithful discharge of his duties. He may with the approval of the governor and council, appoint and with their consent remove, a deputy commissioner who by virtue of such appointment, shall be and perform the duties of chief clerk of the department. In the event of a vacancy in the office of commissioner or during the absence or disability of that officer, the deputy commissioner shall perform the duties of the office.

See c. 125.

Sec. 84. Examination of domestic companies; penalty for refusal. R. S. c. 53, § 84. He shall annually examine or cause to be examined, every domestic

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

Sec. 85. Notice to commissioner of organization; license to do business. R. S. c. 53 § 85. Every domestic insurance company, upon organization, shall inform the commissioner thereof. No such company shall commence business by issuing policies until the commissioner has examined and ascertained that it 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, and annually thereafter upon examination, so long as the same is found solvent and responsible to do business, he shall issue to it a like certificate.

See c. 1, § 6, ¶ xxviii.

Sec. 86. Application for injunction against domestic company; proceedings thereon. R. S. c. 53, § 86. If on examination the commissioner thinks that any 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 proceeding further with its business. Any 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 thinks 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 masters, and do any other act conformable to the general rules of chancery practice which in his opinion is 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 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.

See §§ 50-54; 89 Me. 413; 110 Me. 494.

Sec. 87. Proceedings for appointment of receiver of domestic life insurance company. R. S. c. 53, § 87. 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 appears to the commissioner that the assets of such company are less than its liabilities, reckoning the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at four 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 appears 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. 88. Capital stock to be restored by assessment; shares to be sold for non-payment of assessments; proceedings; capital stock may be reduced. R. S. c. 53, § 88. 1919, c. 27. Whenever, after setting aside an amount equal to fifty

per cent of the premiums in force or the actual unearned portions of such premiums for fire risks; and for marine risks, fifty per cent of the amount of premiums written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other marine risks not terminated; 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, and seven days' notice of the sale shall be given in some daily or weekly paper published in the place where such company is located; and the proceeds of sale, after deducting expenses and the assessments due on such shares, shall be paid to the owner or his representatives; provided, that whenever the capital stock of any insurance company is impaired as aforesaid, it may, by a majority vote of the stock, at a meeting of the stockholders legally called, reduce its capital by canceling its shares pro rata to the number thereof, or it 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. 89. Proceedings for non-compliance. R. S. c. 53, § 89. Any insurance company incorporated in 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 law relating thereto, shall be proceeded against according to section eighty-six.

Sec. 90. Receivers. R. S. c. 53, § 90. Receivers appointed under this chapter, shall have the same power and rights of action, and the course of proceedings so far as applicable shall be the same, as is prescribed for receivers of savings banks.

Sec. 91. Annual statement of condition; penalty for neglect. R. S. c. 53, § 91. 1919, c. 39. 1923, c. 78. 1925, c. 173. Every insurance company doing business in the state shall annually, by the first day of March, render to the commissioner either an exact statement, under oath, of its condition as it existed on the thirty-first day of the previous December, or its last exhibit, setting forth its condition as required by blanks approved by the commissioner, and any company, association, or society which neglects or refuses to comply with the provisions of this section, or to file its premium tax return, or to pay the tax for which it shall be liable, as required by the laws of this state, forfeits five dollars a day for each day's neglect, provided, that for good cause shown, the commissioner may extend the time within which the premium tax return required by section fifty-four of chapter twelve of the revised statutes, may be filed, to a date not later than the fifteenth day of February.

See c. 12, §§ 51, 54, 59.

Sec. 92. Commissioner to preserve statements; make annual report and publish condition of companies. R. S. c. 53, § 92. 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 rendered to him as herein required; and shall annually report to the governor and council, and at once publish the general condition of all insurance companies doing business in 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 such companies.

Sec. 93. Recovery of fines; jurisdiction of courts. R. S. c. 53, § 93. Penalties for violation of any law of the state relating to insurance may be recovered in an action of debt in the name and to the use of the state, or enforced by indictment. The county attorney for the county where the penalties are incurred shall prosecute therefor at the direction of the insurance commissioner, or may prosecute therefor on complaint made to him by any citizen. Prosecutions may be commenced by complaint and warrant before any municipal or police judge or trial justice, as in the case of other offenses not within the final jurisdiction of such judge or justice, as provided in section six of chapter one hundred and forty-four.

See c. 95, § 149.

Inquests into Insurance Frauds.

Sec. 94. Investigation of insurance frauds. R. S. c. 53, § 94. On application in writing to the commissioner by an officer of any insurance company doing business in the state, stating that he has reason to believe and does believe that any person has, by false representations, procured from said company an insurance, or that the company has sustained a loss by the fraudulent act of the insured, or with his knowledge or consent, and requesting an investigation thereof, said commissioner, or his deputy 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.

Note. As to investigation of fires, see c. 34, §§ 48-55; as to licenses for the manufacture and sale of lightning-rods, see c. 48, § 34.

Reciprocal Contracts of Indemnity.

Sec. 95. Making contracts of indemnity between individuals not insurance; attorneys or agents to file a declaration verified by oath. R. S. c. 53, § 95. The making of contracts between individuals, firms, or corporations, providing indemnity among themselves from casualty or other contingencies or from loss or damage to their own property, shall not constitute the business of insurance and shall not be subject to the laws of this state relating to insurance, except as provided in this section and the seven following sections. Where such contracts are exchanged through an attorney, agent, or other representative acting for such individuals, firms, or corporations, the said attorney, agent, or other representative shall file with the insurance commissioner of this state a declaration in writing, verified by the oath of such attorney, agent, or other representative, setting forth:

(a) The name of the attorney, agent, or other representative through whom such contracts are exchanged.

(b) A copy of the form of policy, contract, or agreement under which such insurance is to be exchanged.

(c) A copy of the form of power of attorney or other authority of such attorney, agent or other representative under which such contracts are to be exchanged.

(d) The location of the office or offices from which such contracts or agreements are to be issued.

(e) That applications have been made for indemnity upon at least one hundred separate risks as represented by bona fide applications to become concurrently effective, and that there is on deposit with such attorney, or properly

constituted trustees a sum in cash or convertible securities sufficient to pay at least one total loss equal to the maximum line on any one risk.

Sec. 96. Suits, how and where to be brought; service of process on insurance commissioner. R. S. c. 53, § 96. Concurrently with the filing of the declaration provided for by the terms of the preceding section, the attorney shall file with the insurance commissioner an instrument in writing, executed by him for said subscribers, agreeing that upon the issuance of the certificate of authority provided for in section one hundred and two, in all suits in this state arising out of such policies, contracts, or agreements, action may be brought in the county or state in which the property insured is situated, that service of process may be made on the insurance commissioner, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney, and that the authority of such instrument shall continue in force irrevocable so long as any liability remains outstanding in this state against the subscribers. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney and return one copy with his admission of service. Said attorney, agent, or other representative is hereby authorized to file the above-mentioned instrument appointing the insurance commissioner of this state to receive service of process, which instrument shall be binding upon all the subscribers.

Sec. 97. No subscriber to assume more than ten per cent of his net worth. R. S. c. 53, § 97. Such attorney, agent, or other representative, shall file with the insurance commissioner of this state, a statement verified by his oath, showing the maximum amount of indemnity upon any single risk; and such attorney, agent, or other representative, whenever and as often as shall be required, shall file with the insurance commissioner a statement verified by his oath to the effect that he has examined the commercial rating of all subscribers to the power of attorney above referred to, as shown by the reference book of a commercial agency having at least one hundred thousand subscribers, and that from such examination or other information in his possession, it appears that no subscriber has assumed on any single risk an amount greater than ten per cent of the net worth of said subscriber.

Sec. 98. Reserve sum. R. S. c. 53, § 98. There shall, at all times, be maintained as a reserve a sum in cash or convertible securities or in bona fide agreements to pay, sufficient to pay at least one total loss equal to the maximum line one any one risk.

Sec. 99. Attorney to make report to the insurance commissioner; books and records to be open to inspection. R. S. c. 53, § 99. Such attorney, agent, or other representative shall make a report to the insurance commissioner for the calendar year on or before the thirty-first day of January showing the financial condition of affairs at the office where such contracts are issued, and shall furnish such additional information and reports as he may require; provided, however, that such attorney shall not be required to furnish the names and addresses of any subscribers. The books, records, assets and affairs of the subscribers at the office of the attorney shall be subject to examination by the insurance commissioner, or his authorized representative, and reasonable expense incurred in making such examination shall be borne by said subscribers.

Sec. 100. Corporations may exchange contracts. R. S. c. 53, § 100. Any corporation, now or hereafter organized under the laws of this state, shall in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority to exchange contracts of the kind and character mentioned in the five preceding sections. The right to exchange such

contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred.

Sec. 101. Penalty for violation of §§ 95-100. R. S. c. 53, § 101. Any attorney, agent, or other representative who shall, except for the purposes of applying for the certificate of authority as herein provided, exchange any contracts of indemnity of the kind and character specified in the six preceding sections, or directly or indirectly solicit or negotiate any applications for the same without first complying with the foregoing provisions, or in case of an employee of said attorney, agent, or other representative unless his principal shall have first complied with the foregoing provisions, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars.

Sec. 102. Each attorney, agent, etc., to secure annual certificate. R. S. c. 53, § 102. Each attorney, agent, or other representative by or through whom are issued any policies of or contracts for indemnity of the character referred to in the seven preceding sections shall procure from the insurance commissioner annually a certificate of authority stating that all the requirements of sections ninety-five to one hundred and two, both inclusive, have been complied with, and upon such compliance and the payment of the fees therefor the insurance commissioner shall issue such certificate authorizing such attorney, agent or representative to do business in this state, subject to the provisions of said sections, until the first day of next July and such certificate may be renewed annually thereafter. In case of a breach of any of the conditions imposed by the provisions of said sections, the insurance commissioner may revoke the certificate of authority issued thereunder.

Foreign Insurance Companies.

Sec. 103. Definition of terms "domestic" and "foreign." R. S. c. 53, § 103. The word "domestic," when used in this chapter, means companies incorporated by this state; and the word "foreign," means companies not so incorporated.

Sec. 104. Capital required of stock company; assets required of a mutual company; business authorized. R. S. c. 53, § 104. No foreign fire or marine insurance company shall be admitted to do business in 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, stocks, or securities other than names alone; or if a mutual company net cash assets to the amount aforesaid; or if a mutual company doing fire insurance only, that it possesses net cash assets of not less than fifty thousand dollars and contingent assets of not less than three hundred thousand dollars, or net cash assets of not less than seventy-five thousand dollars with contingent assets of not less than one hundred fifty thousand dollars, or net cash assets equal to its total liabilities and contingent assets of not less than one hundred thousand dollars, provided that such capital and assets, other than contingent, are well invested and immediately available for the payment of losses in this state, that it insures on any single hazard an amount no larger than one-tenth of its net assets and that it has transacted business in its home state at least five years prior to date of applying for admission. In addition to fire and marine insurance a stock or mutual company may be authorized to transact inland marine, tornado, and sprinkler insurance and insurance upon automobiles or damage caused thereby, also for loss of use and occupancy by fire or other cause. Mutual fire insurance

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companies incorporated under the laws of other states, which insure only factories or mills or property connected with such factories or mills, may be authorized to transact business in this state. No life, casualty, accident, health, liability, plate glass, steam-boiler, or fly-wheel, burglary, and theft, or sprinkler insurance company shall be admitted to do business in 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, stocks or securities other than names alone; or if a mutual company, net cash assets to the amount aforesaid.

67 Me. 183.

Sec. 105. Foreign insurance company to obtain license. Requirements before license granted. R. S. c. 53, § 105. No foreign insurance company shall transact any insurance business in the state, unless it first obtains a license from the commissioner. Before receiving such license, it shall furnish the commissioner with,

I. A certified copy of its charter and by-laws.

II. A statement, under oath, signed by its president or secretary, showing its financial condition according to a form supplied by the commissioner.

III. A power of attorney appointing the insurance commissioner of Maine to be the true and lawful attorney of such company in and for this state, upon whom all lawful process in an action or proceeding against the company may be served with the same effect as if the company existed in this state. Said power of attorney shall stipulate and agree on the part of the company, that any lawful process against the company which is served on said attorney shall be the same in legal force and validity as if served on the company, and that the authority shall continue in force irrevocable so long as any liability remains outstanding against the company in this state. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of said commissioner and copies certified by him shall be received in evidence in all courts of this state. Upon receiving the papers herein enumerated the commissioner may, if he deems it advisable, grant a license authorizing the company to do insurance business in this state by constituted agents resident therein subject to its laws, until the first day of the next July, and annually thereafter such license may be renewed so long as he regards the company as responsible and safe, but in all cases to terminate on the first day of the succeeding July.

70 Me. 544; 80 Me. 288; 88 Me. 105.

Sec. 106. Insurance companies of foreign countries, before doing business in the state, to make a deposit, in trust for benefit of policy holders in the United States. R. S. c. 53, § 106. No foreign insurance company incorporated or associated under the laws of any government or state, other than the United States, or one of the United States, shall be licensed to do business in this state, until, beside complying with the provisions of law relating to the admission of companies of other states, it has made a deposit with the treasurer of this state or with the financial officer or insurance commissioner of some one of the other states of the United States, of a sum not less than the capital or assets required of like companies organized under the laws of other states to entitle them to admission to this state. Such deposit must be in exclusive trust for the benefit and security of all the company's policy-holders and creditors in the United States, and may be in securities under the same restrictions as the investments of companies of other states.

Sec. 107. All real estate and securities of such companies to be held by trustees; commissioner may examine books and accounts. R. S. c. 53, § 107. All

real estate, securities, and assets of any such company in the United States shall be held by trustees who are citizens thereof, for the benefit of all its creditors in the United States. These trustees shall be appointed by such company, and a certified copy of the vote by which they are appointed, and of the deed of trust shall be filed in the office of the insurance commissioner, and he may examine such trustees or the agents of such company under oath, and its assets, books, and accounts in the same manner as he may examine the officers, agents, books, and accounts of any company authorized to do insurance business in the state.

Sec. 108. License to such companies. R. S. c. 53, § 108. When such foreign insurance company shall have complied with the foregoing provisions, and the insurance commissioner is satisfied that it is solvent in the United States, he may issue to it a license to transact business in this state and may renew the licenses of the company and agents on the first day of July, annually, so long as he finds the company solvent.

Sec. 109. Reciprocal provisions as to foreign companies. R. S. c. 53, § 109. When by the laws of any other state or country, any fines, penalties, licenses, fees, deposits, or other obligations or prohibitions additional to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents are imposed on insurance companies of this state and their agents, the same fines, licenses, fees, deposits, obligations, or prohibitions shall be imposed upon all insurance companies of such state or country and their agents doing business in or applying for admission to this state.

Sec. 110. Commissioner may revoke license for violation of law. R. S. c. 53, § 110. The insurance commissioner may revoke the license of any foreign insurance company authorized to do business in the state that shall neglect or refuse to comply with the laws thereof, or that shall violate any of the provisions of sections one hundred and five and one hundred and twenty-one of this chapter.

Sec. 111. Insurance commissioner may examine foreign insurance companies. R. S. c. 53, § 111. The insurance commissioner, whenever he deems it necessary for the protection of policy-holders, shall visit and examine any insurance company, doing business by agencies in this state, but not incorporated therein. He may employ necessary assistants; all requisite 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 of the United States, it shall be optional with said commissioner to accept the certificate of the insurance commissioner or superintendent of the state where said company was organized, as to its standing and condition, or to proceed to investigate its affairs as hereinbefore provided.

Sec. 112. He may examine books, papers, and officers; penalty, if company refuses to submit. R. S. c. 53, § 112. 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 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 any provision of this chapter in relation thereto, the authority of such company to do business in the state shall be revoked until satisfactory proof is furnished to the commissioner that the company is in a sound and solvent condition.

Sec. 113. Suspension of foreign companies. R. S. c. 53, § 113. When the commissioner thinks that any licensed foreign insurance company is in failing condition or unsafe, he may suspend its right to do business in this state until

such disability is removed. And if the company or any of its agents, after such suspension and notice thereof to such agent, or the injunction mentioned in section eighty-six, issues any new policies, such agent or company forfeits not exceeding two hundred dollars. And to enable the commissioner to act in the premises, he may require of such company a full statement of all its affairs bearing upon its responsibility, in the form prescribed by him.

80 Me. 290.

Sec. 114. Receivers of foreign companies, appointment, powers. R. S. c. 53, § 114. When a foreign insurance company doing business in this state is dissolved, restrained, or prohibited from doing business in the place where it is incorporated, and when under the 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 or receivers, to take possession of the assets of the company in this state, and collect, sell, or dispose of the same as the court or justice may decree, and divide the proceeds pro rata among such creditors in this state, as prove their claims before said court or justice before the dividend is made; and the balance, if any, shall be paid to the company or its assigns. The proceedings herein provided for, shall conform to section eighty-six. The receivers may maintain an action for any such assets in their own names as receivers, subject to all equities existing between the original or previous parties.

Sec. 115. Commissioner may suspend any insolvent foreign life insurance company; penalty for issuing policies afterwards. R. S. c. 53, § 115. When the commissioner learns that the net cash funds of any foreign life insurance company doing business in this state are not equal to its liabilities, including the net value of its policies according to the combined experience or actuaries' table of mortality, with interest at four per cent a year, he shall give notice to such company and its agents, to cease issuing policies within the state. He may buy and use the life valuation tables adopted by the insurance department of Massachusetts, for 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 forfeits for each offense not exceeding three hundred dollars; and the delivery of a policy in the state by mail or otherwise shall be deemed an issuing of such policy.

Sec. 116. Appeal by suspended company. R. S. c. 53, § 116. When the commissioner suspends the operations of a company, or, on application, refuses to countermand such suspension, it may appeal to a justice 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 is final.

Sec. 117. Foreign insurance companies, life excepted, to publish annual statement of condition; penalty for neglect. R. S. c. 53, § 117. Every foreign insurance company, life excepted, doing business in the state, shall annually, before the first day of May, publish three weeks successively, in some daily or weekly paper printed in every county where it has a duly authorized agent, or issues policies, a condensed statement of its condition conformable to its last annual report to the commissioner, and any such insurance company which

neglects or refuses to publish such statement, forfeits not less than fifty dollars.

Sec. 118. Suits against foreign insurance companies; judgment binds company; suspension unless judgment is paid within thirty days. R. S. c. 53, § 118. Any person having a claim against any foreign insurance company, may bring a trustee action or any other appropriate suit therefor in the courts of this state. Service made upon the insurance commissioner or upon any duly appointed agent of the company within the state shall be deemed sufficient service upon the company, and the judgment rendered therein shall bind the company as valid in every respect, whether the defendants appear or not. Unless such judgment is paid within thirty days after demand, the commissioner may on notice and hearing of the parties, suspend the power of the company to do business in this state until it is paid, and if the company or any agent thereof issues any policy in the state during such suspension, said company and agent each forfeits not exceeding two hundred dollars; but any policy so issued is binding on the company in favor of the holder. Whenever lawful process against an insurance company shall be served on the insurance commissioner, he shall forthwith notify the company of such service by letter and within a reasonable time forward a copy of the process served on him, by mail, post-paid, and directed to the officers of the company.

See c. 94, § 22; *56 Me. 420, 479; 69 Me. 411; 72 Me. 310; *114 Me. 170.

Sec. 119. Notices and processes, how served. R. S. c. 53, § 119. All notices and processes which, under any law, by-law or provision of a policy, any person has occasion to give or serve on any such company, may be given to or served on its agent, or on the 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 is 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 as if noted in the policy.

See § 31; 69 Me. 411; 72 Me. 310; 81 Me. 248; 87 Me. 382; 88 Me. 107; *89 Me. 271, 275; 92 Me. 277; 106 Me. 278, 413; 108 Me. 433; 109 Me. 324; *111 Me. 294; 112 Me. 101; *114 Me. 10, 170; *116 Me. 255; *117 Me. 246; 119 Me. 417.

Sec. 120. Jurisdiction of courts in actions against foreign insurance companies. R. S. c. 53, § 120. No conditions, stipulations, or agreements, shall deprive the courts of this state of jurisdiction of actions against foreign insurance companies or associations, nor limit the time for commencing actions against such companies or associations to a period of less than two years from the time when the cause of action accrues.

Note. Railroad companies have insurable interest in property along route, c. 63, § 63. As to insurance of church in actual occupancy of parish, c. 20, § 13. Foreign insurance companies have benefit of statute limitations under certain circumstances, c. 94, § 107.

Penalty for burning property with intent to defraud the insurer, c. 138, § 24.

Insurance Agents and Brokers.

Sec. 121. Licenses of agents; agent personally liable for unlawful contracts; penalty. R. S. c. 53, § 121. 1917, c. 25, § 1. The insurance commissioner may issue a license to any person to act as an agent of a domestic insurance company, upon his filing with the commissioner a certificate from the company or association, or its authorized agent, empowering him so to act; and to any resident of the state to act as an agent of any foreign insurance company, which has received a license to do business in the state as provided in section one hundred and five or section one hundred and fifty, upon his filing such certificate. Such license

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shall continue until the first day of the next July. If any person solicits, receives, or forwards any risk or application for insurance to any company, without first receiving such license, or fraudulently assumes to be an agent and thus procures risks and receives money for premiums, he shall be punished by a fine not exceeding two hundred dollars, or imprisonment not exceeding sixty days, for each offense; but any policy issued on such application binds the company if otherwise valid. Agents of duly authorized insurance companies may place risks with agents of other duly authorized companies when necessary for the adequate insurance of property, persons, or interests. An insurance agent shall be personally liable on all contracts of insurance unlawfully made by or through him, directly or indirectly, for or in behalf of any company not authorized to do business in the state. Nothing herein contained shall require a duly licensed insurance agent or broker to obtain any license for an employee doing only clerical office work in the office of said agent or broker.

See c. 12, § 56; 61 Me. 335; 70 Me. 544; 80 Me. 288; 81 Me. 508, 510; 88 Me. 105; 95 Me. 36.

Sec. 122. Commissioner may license insurance brokers; penalty for acting without license; may revoke license for cause or upon request of company. R. S. c. 53, § 122. 1917, c. 25, § 2. The insurance commissioner may license any person as broker to negotiate contracts of insurance for others than himself for a compensation, by virtue of which license he may effect insurance with any domestic company or its agents; or any resident of the state to negotiate such contracts and effect insurance with the agents of any foreign company who have been licensed to do business in this state as provided in sections one hundred and five and one hundred and twenty-one, but with no others; said license shall remain in force one year unless revoked as hereinafter provided. Whoever, without such license, assumes to act as such broker, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not more than sixty days for each offense. The insurance commissioner, after reasonable notice, may revoke the license of any agent or broker for violation of the insurance laws; or the license of any agent upon receipt of written request therefor from the company filed in the office of said commissioner.

81 Me. 509; 88 Me. 105.

Sec. 123. Firms and corporations may be licensed as insurance agents and brokers. R. S. c. 53, § 123. The insurance commissioner may issue licenses to firms and corporations in the manner provided in the two preceding sections, authorizing said firms and corporations to act as insurance agents and brokers. The application for said license shall, in case of a firm, give the name of the firm by which the business to be transacted, and the name and residence of each individual member thereof, and in case of a corporation, the corporate name in which the business is to be transacted, and the name and residence of each officer or member of such corporation authorized to transact business therefor; the license issued to such firm shall give the firm name, and the name of each individual member thereof, and the license issued to such corporation shall give the corporate name, and the name of each officer or member thereof authorized to transact business therefor under such license, and such licenses shall authorize the persons named therein to transact business for and in the name of the firm or corporation only.

Sec. 124. Before receiving first license person must appear before commissioner or deputy for personal examination as to qualifications. R. S. c. 53, § 124. 1927, c. 208. Before an agent or broker is licensed as provided in the three preceding sections he shall file with the insurance commissioner a statement under oath, giving his name, residence, present occupation, his occupation

for the five years next preceding the date of such statement, and such other information, if any, as the insurance commissioner may require. After the statement herein provided for is filed, the insurance commissioner may, if he is satisfied that the appointee is a suitable person, issue to him a license in accordance with said sections; provided, however, that it shall not be necessary for an applicant qualifying as an agent or broker for any particular company to re-qualify. The insurance commissioner may at any time after granting such license, for cause shown, and after a hearing, determine any person so appointed, or any person theretofore appointed as agent, to be unsuitable to act as such agent, and shall thereupon revoke such license and notify both the company and the agent of such revocation. Before any person is licensed as hereinbefore provided as a first-time agent of any foreign fire insurance company or as a first-time insurance broker, he shall appear in person at such time and place as the insurance commissioner, his deputy, or any person delegated by the insurance commissioner or his deputy shall designate in writing for that purpose, for a personal examination as to his character and qualifications to act as such agent or broker. The examiner shall be satisfied that such person is of good character and is otherwise qualified for the license he desires; that he intends to hold himself out in good faith as an insurance agent or broker, and that no part of the commission on the business of such agent or broker shall be paid to any person, firm, or corporation other than a duly licensed agent, broker, or insurance company.

Sec. 125. Insurance commissioner may issue licenses to special insurance brokers; conditions upon which insurance may be procured; licensee to keep account of business done and report to commissioner; licensee to give bond. R. S. c. 53, § 125. 1917, c. 63. The insurance commissioner may annually issue licenses to citizens of this state, already agents of one or more duly authorized fire insurance companies, subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state. The person named in such a license shall in each case make application to the insurance commissioner setting forth his reasons for desiring to insure the particular risk with companies not authorized in Maine, and said commissioner shall, if he deems it advisable, grant permission to procure such insurance. He shall give notice to the insurance commissioner not later than five days after the risk is insured, giving the name of the owner, location of the property, name of the company or companies issuing policies thereon. In case the insurance commissioner finds that any company named by a special broker under the provisions of this act is not financially sound and is not believed to be a responsible and reliable company, he shall so notify the special broker who shall forthwith substitute another company, submitting the name of the substitute company to the insurance commissioner for approval. Each person so licensed shall keep a separate account of the business done under the license which shall be open to the inspection of the insurance commissioner or his representative. He shall monthly file with the insurance commissioner a statement showing the amount of insurance placed for any person, firm, or corporation, the location of each risk, the gross premium charged thereon, the companies in which the insurance is placed, the date of the policies and the term thereof and such further information as the insurance commissioner may require. He shall also report in the same detail all policies canceled during the month covered by the report showing the return premiums thereon. Before receiving such license he shall execute and deliver to the treasurer of state a bond in the penal sum of one thousand dollars, with such

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sureties as the insurance commissioner shall approve, with a condition that the licensee will faithfully comply with all the requirements of this section, and will file with the treasurer of state, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed and the gross returned premiums on such insurance canceled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the treasury of state a sum equal to two per cent of such gross premiums, less such returned premiums so reported.

Sec. 126. License may be revoked for violation of law, or for misrepresentation. R. S. c. 53, § 126. Whenever the insurance commissioner shall become satisfied that any insurance agent licensed in this state has wilfully violated any of the insurance laws of this state, or has wilfully over-insured property located in this state, or has wilfully misrepresented any policy of fire insurance, or has dealt unjustly with or wilfully deceived any citizen in this state in regard to any fire insurance policies, or has failed or refused to pay either to the company which he represents, or has represented, any money or property in the hands of such agent belonging to the company, when demanded, or has in any other way become unfit for such position, he may, after a hearing, revoke the license of such agent for all the companies which he represents in this state for such length of time as he may decide, not exceeding one year; provided, however, that the insurance commissioner shall give said agent ten days' notice of such revocation of license or licenses and the reasons therefor.

Sec. 127. Penalty for violation of § 125. R. S. c. 53, § 127. Any person thus licensed, who shall procure or act in procurement or negotiation of insurance in any unauthorized foreign company, and shall neglect to make and file the statements and affidavits herein required, or shall wilfully make a false affidavit or statement, shall forfeit his license and be punished by a fine not exceeding one hundred dollars, or by imprisonment not more than sixty days; and whoever without such license, assumes to act as a special insurance broker, shall incur like punishment.

Sec. 128. Adjusters of losses by fire must be licensed; revocation of license. R. S. c. 53, § 128. No insurance company transacting fire insurance business in this state shall permit any representative to adjust a loss until such representative has been licensed in accordance with the provisions of this section; but a license as an adjuster shall not be required of a duly licensed fire insurance agent residing in this state. The insurance commissioner may issue a license to any person to act as an adjuster of losses by fire upon receipt of an application in such form as may be required by him. Before issuing a license to any adjuster the insurance commissioner shall satisfy himself that the applicant is a suitable person to act as an adjuster. The insurance commissioner may at any time after the granting of such license, for cause shown, and after a hearing, determine that any person so licensed is unsuitable to act as an adjuster and shall thereupon revoke such license and shall notify the adjuster of such revocation.

Sec. 129. Discrimination or rebates on premiums for fire or liability insurance declared unlawful. R. S. c. 53, § 129. No insurance company transacting fire or liability insurance in this state, and no agent or broker transacting fire or liability insurance, either personally or by any other party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement to fire or liability insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; nor shall any such company, agent or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement

to such fire or liability insurance any earning, profit, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance, or therefrom, or other valuable consideration, or any special favor which is not specified, promised, or provided for in the policy of insurance; nor shall any such company, agent, or broker, personally or otherwise, offer, promise, give, or sell as an inducement to such insurance any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, nor, except as specified in the policy, offer, promise, or give any other thing of value whatsoever. or purchase any stocks, bonds, securities, or other property, for which shall be paid or agreed to be paid more than the fair and reasonable value thereof.

Sec. 130. Transactions between companies or agents to be lawful, also dividends to policy-holders. R. S. c. 53, § 130. The preceding section shall not prevent any insurance company from paying to another insurance company, or to any duly authorized agent or broker of this or any other state who holds himself out and carries on an insurance business in good faith as such, or prevent an insurance company, agent, or broker from receiving, a commission on any policy under which it, itself, or he, himself, is insured, or any mutual company from paying dividends duly earned to policy-holders.

Sec. 131. Penalty for violation of § 125. R. S. c. 53, § 131. Any insurance company, agent, or broker who violates any provision of section one hundred and twenty-nine shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars for each and every violation, or in the discretion of the court, by imprisonment not exceeding six months. The insurance commissioner may revoke the license of any company, agent, or broker violating said section.

Life Insurance.

Sec. 132. Life policies issued after March 31, 1877, in default for non-payment of premiums, after being in force three years and containing no surrender provision, continued in force; net value of policy to be ascertained; deductions may be made. R. S. c. 53, § 132. Every life insurance policy issued after the thirty-first day of March, eighteen hundred and seventy-seven, by any company chartered by this state, which may be forfeited for non-payment of premiums, including all notes given for premiums or loans, or interest thereon, after it has been in force three full years, and which does not provide for a surrender value, at least equivalent to the value arising under the terms of this and the following section, is nevertheless continued in force to an extent, and for a period 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' table of mortality, with interest at the rate of four per cent a year; from such net value, there shall be deducted the present value of the differences between the future premiums named in the policy, and the future net premiums on said policy, ascertained according to the rates of mortality and interest aforesaid, in no event, however, to exceed one-fourth of said net value, and in ascertaining said net value, when the premium is payable semi-annually or quarterly, there shall be deducted from the net value of the policy, assuming net annual premiums, the net premiums for the unpaid semi-annual or quarterly instalments for that year which shall not be considered an indebtedness, but as forborne premiums; what remains, after deducting any indebtedness to the company on account of the policy, or notes held by the company against the insured, which notes shall be canceled, shall be considered as a net single premium of

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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 is an endowment, payable at a time certain, or at death if it should previously occur, then, if what remains as aforesaid, exceeds the single net premium of temporary insurance for the balance of the endowment term for the full amount of the policy, such excess shall be considered a net single premium for simple endowment, payable only at the same time as the original endowment, and in case the insured survives to that 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.

Sec. 133. In case of death during term of temporary insurance, company to pay amount of policy; policy may be issued to resident of another state or country, not subject to this and preceding section. R. S. c. 53, § 133. If the death of the insured occurs within the term of temporary insurance covered by the value of the policy as determined in the preceding section, and if no condition of the insurance other than the payment of premiums, has been violated by the insured, the company shall pay the amount of the policy, as if there had been no lapse of the 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 manner provided by the terms of the policy, within one year after the death; provided, also, that the company may deduct from the amount insured in the policy the amount compounded at seven per cent a year of the ordinary life premiums at age of issue, that had been foreborne at the time of the death, including the whole year's premium in which the death occurs, not exceeding five in number. 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 this and the preceding section.

Sec. 134. Bonds may be valued on principles of amortization. R. S. c. 53, § 134. All bonds or other evidences of debt having a fixed term and rate, held by a life insurance company authorized to do business in this state, may, if amply secured and not in default as to principal and interest, be valued upon the principles of amortization, provided that the insurance commissioner shall have full discretion in determining the method of calculating values according to the foregoing principles, and the values found by him in accordance with such method shall be final and binding; provided further that any such corporation may return such bonds or other evidences of debt at their market value or book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to the foregoing principles.

Sec. 135. Reinsurance of risks. R. S. c. 53, § 135. No life insurance company organized or incorporated under the laws of this state, shall reinsure its risks except by permission of the insurance commissioner; but nothing in this chapter shall be construed to prevent any life insurance company from reinsuring a fractional part, not exceeding one-half of any individual risk.

Sec. 136. Discrimination by life insurance companies prohibited. R. S. c. 53, § 136. No life insurance company doing business in this state shall make or permit any distinction or discrimination between individuals of the same class of insurance risk and of equal expectation of life in the amount payable upon the policy, the premiums or rates charged for policies of life insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the same. No company, association, or society, by itself or any other party, and no insurance agent, solicitor, or broker personally, or by any other

party, shall offer, promise, allow, give, set off, or pay, directly or indirectly, as an inducement to life, personal accident or health insurance, on any risk in this state now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; nor shall any such company, association or society, agent, collector, or broker, personally or otherwise, offer, promise, allow, give, set off, or pay, directly or indirectly, as inducement to such insurance, any earnings, profit, dividends, or other benefit, founded, arising, accruing, or to accrue on such insurance or therefrom, or any other valuable consideration, which is not specified, promised, or provided for in the policy of insurance; nor shall any such company, association or society, agent, collector, or broker, personally or otherwise, offer, promise, give, or sell as inducement to such insurance or in connection with such inducement, any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, nor except as specified in the policy, offer, promise, or give any other thing of value whatsoever, or purchase any stocks, bonds, securities, or property for which shall be paid or agreed to be paid more than the fair and reasonable value thereof.

83 Me. 265; *111 Me. 291; 116 Me. 46.

Sec. 137. Insured person not to accept rebates, special favor or inducement. **R. S. c. 53, § 137.** No insured person, firm, or corporation shall knowingly receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's, or broker's commission thereon payable on any policy of life, personal accident or health insurance, or any special favor or advantage in the dividend or other benefit to accrue thereon; nor shall any such person, firm, or corporation receive anything of value as inducement to such insurance or in connection therewith, which is not specified, promised, or provided for in the policy of insurance.

Sec. 138. Penalty for violation of sections 136-137; insurance commissioner may revoke license. **R. S. c. 53, § 138.** Any company, association, society, officer, solicitor, agent, broker, or other person who violates any provision of the two preceding sections shall be guilty of misdemeanor and upon conviction thereof shall be sentenced to pay a fine of one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment for a period of not less than ninety days nor more than six months. The insurance commissioner, after a hearing, may revoke or suspend any license issued to any such company, association, society, agent, or broker for a period not exceeding one year.

Sec. 139. Sections 136-138 not applicable to certain payments. **R. S. c. 53, § 139.** Nothing in the three preceding sections shall be so construed as to prohibit any company issuing non-participating life insurance from paying bonuses to policy-holders or otherwise abating their premiums, in whole or in part, out of surplus accumulated from non-participating insurance; nor to prohibit any company transacting industrial insurance on the weekly payment plan from returning to policy-holders who have made premium payments for a period of at least one year directly to the company at its home or branch offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums; nor to prohibit any life insurance company doing business in this state from issuing policies of life or endowment insurance with or without annuities at rates less than the usual rates of premiums for such policies, insuring members of organizations or employees of any employer who through their secretary of employer may take out insurance in an aggregate of not less than fifty members and pay their premiums through such secretary or employer; nor to prohibit an agent from receiving commissions from his company for insurance on himself.

Sec. 140. Benefits or privileges of policies not to be misrepresented. R. S. c. 53, § 140. No insurance company, association, or society, or any officer, director, agent, broker, or solicitor thereof shall issue, circulate, or use, or cause or permit to be issued, circulated, or used, any written or oral statement, or circular misrepresenting the terms of any life, personal accident, or health policy issued or to be issued by such company, or misrepresenting the benefits or privileges promised under any such policy. No insurance company, association, or society, officer, director, agent, solicitor, or broker, or any person, firm, association, or corporation shall make any misrepresentation, oral, written, or otherwise, to any person for the purpose of inducing or tending to induce such person to take out a policy of life, personal accident or health insurance, or for the purpose of inducing or tending to induce any person having life, personal accident, or health insurance to lapse, forfeit, or surrender such insurance and to take out a policy of insurance in another company.

Sec. 141. Penalty for violation of § 140; insurance commissioner may revoke license. R. S. c. 53, § 141. Any insurance company, association, or society, agent, solicitor, or broker, or any person, firm, association, or corporation, violating any provision of the preceding section shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not more than one hundred dollars for each and every violation, or in the discretion of the court, to imprisonment for a period of not more than six months. The insurance commissioner, after a hearing, shall have authority in his discretion to revoke or suspend the license theretofore issued to any company, association, or society, agent, or broker, for a period not exceeding one year.

Sec. 142. Incriminating evidence to be no excuse from testifying. R. S. c. 53, § 142. No person shall be excused from testifying or from producing any books, papers, contracts, agreements, or documents at the trial or hearing of any person or company, association, or society charged with violating any provision of sections one hundred and thirty-six, one hundred and thirty-seven, one hundred and thirty-eight, and one hundred and forty, on the ground that such testimony or evidence may tend to incriminate himself; but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 143. Policies are exempt from attachment; lien of creditor. R. S. c. 53, § 143. Life and accident policies, and the money due thereon are exempt from attachment, and from all claims of creditors, 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.

See c. 88, § 21; *87 Me. 70; 90 Me. 39; *97 Me. 441.

Annuity Companies.

Sec. 144. Annuity companies made subject to law relating to life insurance. R. S. c. 53, § 144. All corporations, whether incorporated in this state or elsewhere, which issue contracts whereby such corporations, in consideration of a premium to be paid annually or otherwise, agree to pay an annuity commencing in the future, or a sum fixed or to be ascertained by given methods, are hereby made subject, in relation to doing business in this state, to all the provisions of law relating to life insurance, except so far as relates to taxation.

Foreign Surety Companies.

Credit Insurance and Title Insurance.

Sec. 145. Foreign surety, credit, and title insurance companies may do business in this state. R. S. c. 53, § 145. Any company, incorporated and legally organized under the laws of any foreign country, or of any state of the United States, other than the State of Maine, for the purpose of transacting business as surety on obligations of persons or corporations, or the business of credit insurance or title insurance, may transact such business in this state upon complying with the provisions of the eleven following sections, and not otherwise.

Sec. 146. Insurance commissioner to be appointed attorney, upon whom process may be served; certificate of appointment to be filed with commissioner. R. S. c. 53, § 146. No such company not incorporated under the authority of this state shall, directly or indirectly, take risks or transact business in this state until it shall have first appointed, in writing, the insurance commissioner of Maine to be the true and lawful attorney of such company in and for this state, upon whom all lawful process, in any action or proceeding against the company, may be served with the same effect as if the company existed in this state. Said power of attorney shall stipulate and agree on the part of the company that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company, and that the authority shall continue in force so long as any liability remains outstanding against the company in this state. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the said insurance commissioner, and copies certified by him shall be received in evidence in all the courts of this state. Service upon such attorney, or upon any duly appointed agent of the company within this state, shall be deemed sufficient service upon the company.

Sec. 147. Copy of all processes to be forwarded. R. S. c. 53, § 147. Whenever lawful process against such company shall be served upon said insurance commissioner, he shall forthwith forward a copy of the process served on him, by mail, post-paid, and directed to the secretary of the company.

Sec. 148. No person to act as agent, unless company has \$250,000 capital paid up. R. S. c. 53, § 148. No person shall act within this state, as agent, or otherwise, in procuring or securing applications for suretyship upon the bond of any person or corporation, or for credit insurance or title insurance, or aid in transacting the business of such suretyship or insurance, for any company incorporated or organized, under the laws of any other state or country, unless such company is possessed of two hundred and fifty thousand dollars, paid-up, unimpaired capital, exclusive of any obligations of the stockholders of any description, well invested in or well secured by real estate, bonds, stocks, or securities other than names alone, or if a mutual company, net cash assets of the amount aforesaid.

Sec. 149. Persons who to be deemed agents, and their liabilities. R. S. c. 53, § 149. Every person who shall so far represent any such company established in any other state or country, as to receive or transmit applications for suretyship or insurance, or to receive for delivery, bonds or policies founded on applications forwarded from this state, or otherwise to procure suretyship to be effected by such company upon the bonds of persons or corporations in this state, or upon bonds given to persons or corporations in this state, or otherwise to procure such insurance in the state, shall be deemed to be acting as agent for said company, and shall be subject to the restrictions and liable to the penalties herein made applicable to agents of such companies.

Sec. 150. Copy of charter and statement of condition to be deposited with

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commissioner, before license is issued. R. S. c. 53, § 150. Every such company, before transacting any business as aforesaid, shall deposit with the insurance commissioner a copy of its charter, and also a statement, signed and sworn to by the president and secretary of the company, stating the amount of its capital and the manner of its investments, designating the amount invested in mortgage, in public securities, in the stock of incorporated companies, stating what companies, and also the amount invested in other securities, particularizing each item of investment, the amount of existing policies issued by said company, or of existing bonds upon which such company is surety, stating what portion thereof is secured by the deposit with such company of collateral security, the amount of premium thereon, and the amount of liabilities, specifying therein the amount of outstanding claims adjusted or unadjusted, due or not due; and thereupon said commissioner may grant a license, authorizing said company to transact surety business or the business of credit insurance or title insurance in this state subject to its laws, until the first day of July next following, and such license may be renewed annually thereafter.

Sec. 151. Annual statement to be filed with commissioner. R. S. c. 53, § 151. Every such company shall, in the month of January, annually, also deposit with the said insurance commissioner a similar statement of its capital, assets, and liabilities, and the investments and risks as aforesaid, to be made up to the thirty-first day of December next preceding, signed and sworn to as above directed, and the insurance commissioner, in his annual report, shall publish an abstract thereof.

Sec. 152. Agents not to act until requirements of law have been complied with; penalty. R. S. c. 53, § 152. No person shall act as agent of any such company until such company and such agent shall have complied with all the requirements of the laws of the state, relating to such companies and their agents, and every person acting without such compliance shall be fined one hundred dollars.

Sec. 153. If annual returns are obscure or defective, commissioner may require answers under oath; penalty for refusing to answer. R. S. c. 53, § 153. The insurance commissioner shall annually examine the statements and returns required to be made by the companies as aforesaid, and if in his opinion any return shall be obscure, defective, or unsatisfactory, he shall immediately require answers under oath from the officer or officers by whom such obscure, defective, or unsatisfactory return shall have been made, to such interrogatories as he may deem necessary or proper in order to explain such return and exhibit a full and accurate view of the business and resources of the company. Every company, the officers of which shall refuse or neglect to answer such interrogatories for the space of thirty days, may be suspended from transacting business in this state until satisfactory answers are made by them.

Sec. 154. Examination of such companies; commissioner may publish result of investigation; may revoke license; expenses of examination. R. S. c. 53, § 155. The insurance commissioner, either personally, or by a committee appointed by him, consisting of one or more persons not directors, officers, or agents of any such company doing business in this state, may at any time examine into the affairs of such companies. The officers or agents of such companies shall exhibit their books to said commissioner or committee, and otherwise facilitate such examination, and the commissioner or committee may examine, under oath, the officers and agents of such companies in relation to their affairs; and said commissioner shall, if he deems it necessary or proper, publish the result of such investigation in one or more newspapers published in the state. Whenever it shall appear to the said commissioner, from the statement or from an examina-

tion of the affairs of any such company, not incorporated under the authority of this state, that such company is insolvent, or is conducting its business fraudulently, or refuses or neglects to comply with the laws of the state, relating of such companies, he shall revoke the license issued to such company and its agents, and shall cause a notice thereof to be published in one or more newspapers published in this state, and the agent or agents of such company, after such notice, shall transact no further business in this state. All the expenses of an examination made under the provisions of this section shall be paid to the commissioner by the company examined.

Sec. 155. Violations to be reported to attorney general. R. S. c. 53, § 155. The insurance commissioner shall report to the attorney-general any violation of the provisions of law relating to such companies, which shall come to his knowledge, and the attorney-general shall institute proper legal proceedings in the name of the state, against any person or company violating any such provision.

Sec. 156. Any company organized for such purposes with sufficient capital, may be accepted as surety on bonds required by law. R. S. c. 53, § 156. Any company with a paid-up capital of not less than two hundred and fifty thousand dollars, duly incorporated and organized for the purpose of transacting business as surety on obligations of persons or corporations, and which has complied with all the requirements of the law regulating the admission of such companies to transact business in the state, may be accepted as surety upon the bond of any person or corporation required by the laws of the state to execute a bond, and if such surety company shall furnish satisfactory evidence of its ability to provide all the security required by law, no additional surety may be exacted, but other surety or sureties may, in the discretion of the official authorized to approve such bond, be required, and such surety company may be released from its liability on the same terms and conditions as are by law prescribed for the release of individuals, it being the true intent and meaning of this section to enable corporations created for that purpose to become surety on bonds required by law, subject to all the rights and liabilities of private individuals.

104 Me. 133.

Sec. 157. Premiums on official bonds to be paid by county or allowed in accounts. R. S. c. 53, § 157. Any court or officer whose duty it is to pass upon the account of any person or corporation required by law to give a bond, may, whenever such person or corporation has given any such surety company as surety upon said bond, allow in the settlement of such account a reasonable sum for the expense of procuring such surety. The premium on account of all official bonds required by law to be given by county officials shall be paid from the treasuries of their several counties.

Sec. 158. Insurance commissioner to notify registers of probate of authorization of surety companies. R. S. c. 53, § 158. Whenever any foreign or domestic surety company complies with all the requirements of law regulating the admission of such companies to transact business in this state and is authorized to transact business therein, the insurance commissioner shall forthwith transmit to each register of probate the name of such company and the names of all agents of such company who have been licensed by him, their places of residence and the dates when their licenses will expire; and he shall on the first days of February and August of each year forward to each register of probate a list containing the names of all surety companies, foreign and domestic, which are then licensed or qualified to transact business in the state, the names of all agents of said companies, who have been licensed by him, and their places of residence,

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and the dates when their respective licenses will expire; he shall from time to time communicate to the registers of probate the names of all surety companies which cease to qualify to transact business in this state. The registers shall preserve such lists on the files of the courts.

Sec. 159. Company estopped to deny corporate power. R. S. c. 53, § 159. Any company which shall execute any bond as surety under the provisions of section one hundred fifty-six shall be estopped in any proceedings to enforce the liability which it shall have assumed to incur, to deny its corporate power, or the authority of any licensed agent, to execute such instrument or assume such liability.

Casualty Insurance on Assessment Plan.

Sec. 160. Definition of contract; business to be carried on only by duly organized corporation. R. S. c. 53, § 160. Every contract whereby a benefit is to accrue to the party or parties named therein upon the accidental death only, or the physical disability from accident or sickness of a person, which benefit is in any degree or manner conditioned upon the collection of an assessment upon persons holding similar contracts, shall be deemed a contract of casualty insurance on the assessment plan, and the business involving the issuance of such contracts shall be carried on in this state only by duly organized corporations, which shall be subject to the provisions and requirements of this and the twelve following sections; but nothing herein contained shall be construed as applicable to fraternal beneficiary associations conducting their business in accordance with the laws of this state.

Sec. 161. Formation of corporations to carry on casualty insurance on assessment plan; provisions as to guaranty fund; authorization to write business; liability of policy-holder stated on policy. R. S. c. 53, § 161. Seven or more persons, citizens of this state, may form a corporation to carry on the business of casualty insurance on the assessment plan. Such corporations shall be organized, and the proceedings thereunder shall conform to sections one, two, and three of chapter sixty-two; but no such corporation shall begin to do business until at least five hundred persons have subscribed, in writing, to be insured therein, and have each paid in one full disability assessment; nor until it shall have established a guaranty fund or capital of not less than ten thousand dollars, which may be divided into shares of not less than one hundred dollars and certificates issued therefor. A dividend not exceeding seven per cent in any one calendar year may be paid from the net earnings of the company after providing for all expenses, losses, reserves, and liabilities then incurred. Such guaranty fund or capital shall be invested as provided in section twenty of this chapter, and shall be deposited with the treasurer of state. When the cash and other available assets of the company are exhausted such part of said fund as may be required shall, with the approval of the insurance commissioner, be drawn and used to pay losses then due. When such fund is so drawn upon the directors shall make good the amount so drawn, either from the receipts of the company or by assessments upon the contingent funds of the company and unless such fund is restored within six months from date of withdrawal the shareholders shall be assessed in proportion to the amount of stock owned by them for the purpose of restoring said capital. Shareholders and members of such companies shall be subject to the same provisions of law relative to their right to vote as apply respectively to shareholders in stock companies and policy-holders in purely mutual companies. Said guaranty fund or capital may be retired by vote of the policy-holders when the surplus funds of the company over and above

all liabilities, including guaranty capital, shall equal or exceed the amount of such guaranty fund or capital, or any part of said guaranty fund or capital may be retired; provided, that the amount of net surplus and guaranty fund or capital shall not be less than ten thousand dollars. The guaranty fund or capital shall be retired when the net cash assets of the company equal twice the amount of guaranty fund or capital. The corporation shall not begin business until it has filed with the insurance commissioner a certified copy of the record of its organization and by-laws, which has been approved by him; nor until the insurance commissioner has certified that it has complied with the provisions of this chapter relating to insurance on the assessment plan and is authorized to transact business. No organization under the provisions of this section shall continue valid more than one year unless the organization has been completed and business begun thereunder. When such company has established a guaranty fund or capital as provided herein and has complied with the other requirements of the laws of this state, it shall be authorized by the insurance commissioner to write business; and such company may charge and collect a premium in cash and by its by-laws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a member shall not be less than an amount equal to and in addition to the cash premium written in his policy. The total amount of the liability of the policy-holder shall be plainly and legibly stated upon the filing-back of each policy. Whenever any reduction is made in the contingent liability of members such reduction shall apply proportionally to all policies in force.

Sec. 162. Proceedings against corporation conducting business fraudulently; when and how domestic corporation may be closed; appointment and duties of receiver; dissolution of corporation. R. S. c. 53, § 162. When the insurance commissioner, on investigation, is satisfied that any corporation transacting the business of casualty insurance on the assessment plan in this state under this chapter, has exceeded its powers, failed to comply with any provision of law, or is conducting business fraudulently, he shall report the facts to the attorney-general, who shall thereupon apply to a justice of the supreme judicial court for an injunction restraining such corporation from the further prosecution of business; and the said justice upon hearing the matter, may issue such injunction, or decree the removal of any officer, and substitute a suitable person to serve in his stead until a successor is duly chosen, and may make such other order and decrees as the interest of the corporation and the public may require. And whenever any domestic corporation transacting the business of casualty insurance on the assessment plan, shall after an existence of one year or more, have a membership of less than three hundred, the insurance commissioner may present the facts in relation to the same to any justice of the supreme judicial court; the said justice shall thereupon notify the officers of such corporation of a hearing and unless it shall then appear that some special and good reason exists why the corporation should not be closed, some person shall be appointed receiver of such corporation, and shall proceed at once to take possession of the books, papers, moneys, and other assets of the corporation, and shall forthwith, under the direction of the court, proceed to close the affairs of such corporation and to distribute to those entitled thereto its funds. For this service the receiver may be allowed out of any funds in possession of the corporation or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the corporation shall be finally closed, the court may decree a dissolution of the same.

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Sec. 163. Transfer of risks or reinsurance in another corporation. R. S. c. 53, § 163. No such corporation organized under the laws of this state shall transfer its risks to or reinsure them in any other corporation, unless the said contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of those present and voting at a meeting of the insured called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least ten days before the day fixed for said meeting; and, in case said transfer or reinsurance shall be approved, every policy or certificate holder of the said corporation who shall file with the secretary thereof, within five days after the said meeting, written notice of his preference to be transferred to some other corporation than that named in the contract, shall be accorded all the rights and privileges, if any, in aid of such transfer as would have been accorded under the terms of the said contract had he been transferred to the corporation named therein.

89 Me. 418.

Sec. 164. Reserve fund; its investment and application to payment of claims. R. S. c. 53, § 164. Any corporation organized under section one hundred and sixty-one, or any corporation of this state doing assessment insurance business under this chapter or its charter, shall keep on deposit with the treasurer of state a reserve fund for the benefit and protection of certificate holders in said corporation; for the creation of which it shall on or before the thirty-first day of December of each year, deposit with said treasurer a sum sufficient to make the total deposit with said treasurer not less than the amount of one assessment or periodical call on all its policy-holders for benefit and expense funds, until the reserve fund so accumulated shall amount, together with the amount there deposited prior to the first day of March, eighteen hundred and eighty-nine, to not less than twenty-five thousand dollars. These amounts may be deposited in such interest-bearing securities as the governor and council may approve, or in such securities as any insurance company or savings bank may, from time to time, be authorized to hold for purpose of investment. These securities shall be held in trust by the treasurer of state, but the corporation shall have at all times the right to exchange any part of said securities for others of like amount and character. When deemed advisable by a majority of the directors, such part of the fund as may be considered necessary, may be applied from time to time, to the payment of claims under insurance contracts and the expense necessarily incident thereto, and for no other purpose. Provided, however, that said fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members for benefit and expense funds, nor to less than one thousand dollars.

Sec. 165. Duty of insurance commissioner; satisfaction of judgments. R. S. c. 53, § 165. The insurance commissioner shall annually, in February, certify to the treasurer of state, the minimum amount of reserve fund required to be kept on deposit in the state treasury by each corporation doing business on the assessment plan, under this chapter. If said corporation shall neglect for sixty days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said corporation shall not transact any further business until said deposit is restored. When any such corporation shall discontinue business, any justice of the supreme judicial court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed five per cent, as such court or justice may allow the receiver or agent, first, in the payment of accrued indemnity claims upon cer-

tificates or policies, or if insufficient to pay such claims in full, they shall be paid pro rata; second, if a balance remains after the payment of such claims, such balance shall be distributed to the holders of certificates then in force, pro rata, in proportion to the total payments by each policy-holder after first paying all expenss incident to such distribution. If, upon the thirty-first day of December of any year, the reserve fund of any such corporation is found to be less than the amount of one assessment or periodical call upon all the members thereof, said corporation shall, within one year thereafter, collect from its members a sum sufficient to bring said reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the treasurer of state to the credit of said fund.

86 Me. 232; 87 Me. 181; 89 Me. 419.

Sec. 166. Authorization of foreign corporations; conditions under which authority to do business in the state is granted, renewed, and revoked. R. S. c. 53, § 166. Any corporation organized under authority of another state or government to issue policies or certificates of casualty insurance on the assessment plan, as a condition precedent to the transaction of business in this state, shall deposit with the insurance commissioner a certified copy of its charter; a statement under oath, of its president and secretary, in the form by the insurance commissioner required, of its business for the preceding year; a certificate, under oath, of its president and secretary, that it has the ability to pay and for the twelve months preceding has paid, the maximum amount named in its policies or certificates in full; a certificate from the proper authority in its home state that corporations of this state, engaged according to the provisions of this chapter in casualty insurance on the assessment plan, are legally entitled to do business in such state; a copy of its policy or certificate and application, which must show that benefits are provided for by assessment upon policy or certificate holders; evidence satisfactory to the insurance commissioner that the corporation accumulates a fund, equal at all times in amount to not less than the proceeds of one assessment or periodical call on all policy or certificate holders thereof, that such accumulation is permitted by the law of its incorporation, and is a trust for the benefit of policy or certificate holders, and is securely invested; provided, that no such company shall be hereafter authorized, unless such company shall have a guaranty fund or capital or net cash assets equal to the amount required of domestic companies incorporated after the twelfth day of July, one thousand nine hundred and thirteen. Every such corporation, and agent of such corporation, shall also comply with the provisions of sections one hundred and thirteen, one hundred and twenty-one, and one hundred and twenty-two of this chapter. The insurance commissioner may thereupon issue or renew the authority of such corporation to do business in this state, and such authority to the corporation and its agents shall be revoked whenever the insurance commissioner, on investigation, is satisfied that such corporation is not paying the maximum amount named in its policies or certificates in full, or has violated the provisions of section one hundred and sixty-eight, and the insurance commissioner shall enforce the provisions of section one hundred and thirteen of this chapter. Upon such revocation the commissioner shall cause notice thereof to be published in the state paper, and no new business shall be thereafter done by said corporation or its agents in this state.

Sec. 167. Calls to state purpose of same; application of proceeds. R. S. c. 53, § 167. Every call for payments upon the policy or certificate holders of any corporation doing business in this state as a casualty insurance company on the assessment plan, shall distinctly state the purpose of the same, whether

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for indemnity claims or for expenses, and the proceeds of indemnity calls, less a commission actually paid for collecting the same not exceeding three per cent thereof, shall be used for payment of claims under policy contracts, for investigating and contesting policy claims believed to be fraudulent, and for deposit with the treasurer of state on reserve fund and for no other purpose.

Sec. 168. Policy to bear on the face the words: "This policy is subject to assessments." R. S. c. 63, § 168. In every policy or certificate issued after the first day of July, eighteen hundred and ninety-nine, to a resident of this state by any casualty or accident insurance company doing business on the assessment plan, there shall be printed in bold type, making one of the principal lines near the top thereof, the words, "This policy is subject to assessments," and in or upon every application, circular, card, advertisement, and printed document issued by such corporation within the state there shall be printed conspicuously the words "assessment plan."

Sec. 169. Benefit or relief not liable to attachment; beneficiary may be changed. R. S. c. 53, § 169. The money or other benefit, charity, relief, or aid to be paid, provided, or rendered by any corporation authorized to do casualty insurance business on the assessment plan under this chapter shall not be liable to attachment by trustee or other process, and shall not be seized, taken, appropriated, or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of a policy or certificate holder, or any beneficiary named therein. The beneficiary named in any certificate may be changed by the insured at any time under such regulations as the corporation may prescribe.

See c. 88, § 21.

Sec. 170. Penalty for false representation by solicitor, agent, or physician. R. S. c. 53, § 170. Any solicitor, agent, or examining physician who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for insurance, or for the purpose of obtaining any money or benefit, in any corporation transacting business on the assessment plan under this chapter, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year.

Sec. 171. Corporations to report annually; commissioner may examine any such corporations. R. S. c. 53, § 171. Every corporation doing business on the assessment plan under this chapter, or its charter, shall annually, on or before the thirty-first day of January, return to the insurance commissioner, in such manner and form as he shall prescribe, a statement of its affairs for the year ending on the preceding thirty-first day of December, and the said commissioner, in person or by deputy, shall have the powers of visitation of and examination into the affairs of any such corporation, which are conferred upon him in the case of life insurance companies, by this chapter; but such corporation doing business under this chapter, shall not be subject to any other provisions or requirements of this chapter, except as set forth in sections fifteen, one hundred and nine, one hundred and eighteen to one hundred and twenty, both inclusive, and in sections one hundred and sixty to one hundred and seventy-two, inclusive.

Sec. 172. Fees for filing statement, etc. R. S. c. 53, § 172. The fees for filing statements, certificates, or other documents required of such companies or for any service or act of the insurance commissioner, and the penalties for any violation of sections one hundred and sixty to one hundred and seventy-two inclusive, by such companies shall be the same as provided in the case of life insurance companies.

Life Insurance Payable in Money.

Sec. 173. Life insurance companies not to contract to pay benefits in anything but money. 1917, c. 119. No corporation organized or authorized under the laws of this state to transact life insurance or to pay benefits shall provide in any policy, certificate, contract, or agreement issued or made by it, for the payment of any insurance, indemnity, or benefit, in services, goods, wares, or merchandise of any kind.

Minors May Insure.

Sec. 174. Minors may make valid contracts for life insurance. 1921, c. 120. In respect to insurance heretofore or hereafter issued upon the life of any person between the ages of fifteen and twenty-one years, for the benefit of such minor, or for the benefit of the father, mother, husband, wife, child, brother, or sister of such minor, the insured shall not, by reason only of such minority, be incompetent to contract for such insurance, or for the surrender of such insurance, or to give a valid discharge for any benefit accruing, or for money payable under the contract, provided that such surrender or discharge shall be given with the consent of the beneficiary.

Policy Incontestable after Two Years.

Sec. 175. Life insurance policies incontestable after two years; exceptions. 1923, c. 164. That the policy of insurance together with the application and the medical examination therefor, a copy or photograph of which application without the medical examination shall be endorsed upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the life time of the insured for two years from its date, except for non-payment of premiums and except for violations of the policy relating to the naval or military service in time of war and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted.

Liability Absolute when Loss Occurs.

Sec. 176. Liability of insurance company absolute when loss occurs. 1927, c. 146, § 1. The liability of every company which insures any person, firm, or corporation against accidental loss or damage on account of personal injury or death, or on account of accidental damage to property, shall become absolute whenever such loss or damage for which the insured is responsible, occurs; and the rendition of a final judgment against the insured, for such loss or damage, shall not be a condition precedent to the right or obligation of the insuring company to make payment on account of such loss or damage.

Judgment Creditor may have Insurance.

Sec. 177. Judgment creditor entitled to have insurance money apply to satisfaction of judgment by bill in equity to reach and apply; limitations. 1927, c. 146, §§ 2, 3. Whenever any person, administrator, executor, guardian, firm, or corporation, recovers a final judgment against any other person, firm, or corporation, for any loss or damage specified in the preceding section, the judgment creditor shall, after twenty days have elapsed from the rendition of the final

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judgment, be entitled to have the insurance money applied to the satisfaction of the judgment by bringing a bill in equity, in his own name, against the insuring company to reach and apply said insurance money; provided, that when the right of action accrues the judgment debtor was insured against said liability, and that before the recovery of said judgment the insuring company had had notice of such accident, injury, or damage; provided, also, that the insuring company shall have the right to invoke the defenses described in section one hundred seventy-eight of this chapter in said equity proceedings.

Sec. 178. Exceptions. 1927, c. 146, § 4. None of the provisions of this act shall apply

(1) when the automobile, motor vehicle or truck is being operated by any person contrary to law as to age, or by any person under the age of sixteen years where no statute restricts the age; or

(2) when such automobile, motor vehicle or truck is being used in any race or speed contest; or

(3) when such automobile, motor vehicle or truck is being used for towing or propelling a trailer unless such privilege is endorsed on the policy, or such trailer is also insured by the company; or

(4) in the case of any liability assumed by the insured for others; or

(5) in the case of any liability under any workmen's compensation agreement, plan or law; or

(6) when there is fraud or collusion between the judgment creditor and the insured.

Dividend payable at Agent's Office.

Sec. 179. Dividend of foreign mutual fire insurance company; when and where payable. 1917, c. 184. Any dividend due from a foreign mutual fire insurance company under a policy of insurance issued by it shall be payable at the place of business of its duly commissioned agent in this state seven days subsequent to a demand for the payment thereof made by the assured or by his authorized representative; upon failure to so make such payment, an action therefor may be maintained.

CHAPTER 60.

Fraternal Beneficiary Associations.

Sections 1-8 Domestic Associations.

Sections 9-12 Foreign Associations.

Section 13 Associations for Casualty Insurance.

Sections 14-27 Licenses to Agents and Supervision by Insurance Commissioner.

Sections 28-31 Foreign Associations for Casualty Insurance.

Sections 32-37 Whole Family Protection.

Domestic Associations.

Sec. 1. Term "beneficiary association" defined; required form of organization, and benefit fund; not subject to insurance laws. R. S. c. 54, § 1. A fraternal beneficiary association is hereby defined to be any corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its

members and their beneficiaries, and not for profit. Each association shall have a lodge system, with ritualistic form of work and representative form of government, and shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in the case of sickness, temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period in life at which payment of physical disability benefits on account of old age commences, shall not be under seventy years, subject to compliance with its constitution and laws. The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such association shall be defrayed shall be derived from assessments or dues collected from its members. Payment of death benefits shall be to the families, heirs, blood relatives, adopted children, adopting parents, affianced husband or affianced wife of, or to persons dependent upon the member; provided, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, or upon the subordinate lodge of which he is a member, he shall have the privilege with the consent of the society, to make such institution or such subordinate lodge, his beneficiary. Such association shall be governed by the first twenty-seven sections of this chapter, and shall be exempt from the provisions of insurance laws of this state, except as therein provided, and no law passed after the twenty-first day of March, nineteen hundred and one, shall apply to them, unless they be expressly designated therein. Any such fraternal beneficiary association may create, maintain, disburse and apply a reserve or emergency fund in accordance with its constitution or by-laws.

116 Me. 224.

Sec. 2. Organization of fraternal beneficiary associations. R. S. c. 54, § 2. Seven or more persons, residents of the state, desiring to form a fraternal beneficiary corporation for the purposes above provided, and having signed an agreement therefor, declaring therein the purposes of such corporation, may organize as such in the manner provided in sections one, two, and three of chapter seventy, and such corporation shall have all the powers, privileges and immunities, and be subject to all the liabilities named in said section three.

Sec. 3. Certificate of organization; to be recorded in office of secretary of state. Certificate issued by secretary of state. R. S. c. 54, § 3. The president, secretary, and a majority of the directors, or other officers corresponding thereto, shall forthwith make, sign and swear to a certificate setting forth a true copy of the agreement and declaration of the purposes of the association, with the names of the subscribers thereto, the date of the first meeting, and the successive adjournments, if any, and shall submit such certificate and the records of the corporation to the insurance commissioner, who shall make such examination and require such evidence as he deems necessary; and if it appears that the purposes of the corporation conform to law, he shall certify his approval thereof, and the certificate shall then be filed by said officer in the office of the secretary of state, who shall cause the same with the indorsements, to be recorded, and shall thereupon issue a certificate in the following form:

“STATE OF MAINE.

Be it known that whereas” (here the names of the subscribers to the agreement of the association shall be inserted), “have associated themselves with the intention of forming a corporation under the name of” (here the name of the corporation shall be inserted) “for the purpose” (here the purpose declared in the agreement of association shall be inserted), “and have complied with the

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provisions of the statutes of this state in such case made and provided, as appears from the certificate of the officers of the corporation, duly approved by the insurance commissioner and recorded in this office: Now, therefore, I" (here the name of the secretary shall be inserted), "Secretary of the State of Maine, do hereby certify that said" (here the names of the subscribers to the agreement of association shall be inserted), "their associates and successors, are legally organized and established as and are hereby made an existing corporation under the name of" (here the name of the corporation shall be inserted), "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 _____." (day, month and year inserted).

The secretary shall sign the same and cause the seal of the state to be thereto affixed, and such certificate shall be conclusive evidence of the existence of such corporation at the date of such certificate. He shall cause a record of such certificate to be made, and a certified copy of such record may be given in evidence, with like effect as the original certificate.

Sec. 4. Business must be commenced within one year or charter is void. R. S. c. 54, § 4. No charter granted under the provisions of the two preceding sections shall be valid after one year from its date unless the organization has been completed and business begun thereunder, and when any domestic corporation has discontinued business for the period of one year its charter shall become null and void.

See c. 1, § 6, ¶ xxix.

Sec. 5. Any association may reincorporate under this chapter. R. S. c. 54, § 5. Any fraternal beneficiary corporation existing under the laws of this state, and engaged in transacting business herein on the twenty-first day of March, nineteen hundred and one, may reincorporate under the foregoing provisions; provided, that nothing herein contained shall be construed as requiring any such corporation to reincorporate; and any such corporation may continue to exercise all the rights, powers, and privileges conferred by the first twenty-seven sections of this chapter, and its articles of incorporation not inconsistent herewith, and shall be subject to the requirements and penalties of said sections the same as if reincorporated thereunder.

Sec. 6. Association not to do business until authorized by insurance commissioner. R. S. c. 54, § 6. No association hereafter organized under the provisions of sections two and three of this chapter, shall incur any liability or issue any benefit certificate until it has received from the insurance commissioner a certificate to the effect that it has complied with the requirements of law and is duly authorized to transact business in this state. Before such certificate is granted the association must present satisfactory evidence to the insurance commissioner that it has established mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables and that at least five hundred persons have each paid one advance mortuary assessment on the rates so established and become a bona fide member of a local branch of the association, and that it has deposited with the treasurer of state at least one thousand dollars as a part of its emergency or reserve fund for the benefit and protection of certificate holders in said association, which fund shall be held and used as hereinafter provided.

Sec. 7. Reserve fund must be provided; application to payment of death benefits; minimum amount; proceedings when company in default. R. S. c. 54, § 7. Each such association organized under the foregoing provisions, after

the twenty-first day of March, nineteen hundred and one, shall, on or before the thirty-first day of December in each year deposit with the treasurer of state to the credit of its emergency or reserve fund not less than fifteen per cent of its total mortuary receipts for the year then ending, until the amount so deposited amounts to not less than fifty thousand dollars. These amounts shall be deposited in such interest-bearing securities as any insurance company or savings bank may from time to time be authorized to hold for purpose of investment, and the securities shall be held in trust by the treasurer of state, but the association shall have at all times the right to exchange any part of said securities for others of like amount and character, and the income from said fund shall be paid by said treasurer to the association. When deemed advisable by the majority of the directors, or other officers corresponding thereto, such part of the fund as may be considered necessary, may with the written approval of the insurance commissioner, be applied from time to time to the payment of death benefits but for no other purpose; provided, however, that such fund shall not at any time be reduced below an amount equal to one assessment or periodical call upon all of its members, nor to less than one thousand dollars. The insurance commissioner shall annually, in February, certify to the treasurer of state, the minimum amount of reserve fund required to be kept on deposit in the treasury by each such association doing business under this chapter. If said association shall neglect for sixty days to satisfy any judgment against it, in any court in this state, then the said treasurer shall convert into money any of said securities, and forthwith satisfy such judgment, and said association shall not transact any further business until said deposit is restored. When any such association shall discontinue business, any justice of the supreme judicial court may appoint a receiver or agent to administer any unexhausted portion of such fund which shall be used, less compensation not to exceed five per cent, as such court or justice may allow the receiver or agent; first, in the payment of accrued, mortuary or indemnity claims upon certificates or policies, or if insufficient to pay such claims in full, they shall be paid, pro rata; second, if a balance remains after the payment of such claims, such balance to be distributed to the holders of certificates then in force, pro rata, in accordance with the total mortuary payments of said members, after first paying all expenses incident to such distribution. If, upon the thirty-first day of December of any year, the emergency or reserve fund of any such association is found to be less than the amount of one assessment or periodical call upon all the members thereof, said association shall, within six months thereafter, collect from its members a sum sufficient to bring said emergency or reserve fund up to one assessment or periodical call upon all its members, and deposit the amount with the treasurer of state to the credit of said fund.

Sec. 8. Association not to reinsure unless contract is approved by a two-thirds vote of such association; voting by proxy forbidden. R. S. c. 54, § 8. No such association shall reinsure with or transfer its membership certificates or funds to any organization, unless the said contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of the members of each association present at meetings called to consider the same, of which meetings written or printed notice shall be mailed to each certificate holder at least thirty days before the date fixed for said meeting, nor unless the said contract of transfer or reinsurance is first submitted to and approved by the insurance commissioner. The members of fraternal beneficiary associations shall not vote by proxy.

Foreign Associations.

Sec. 9. Certain foreign associations may continue business; other foreign associations must obtain license; prerequisites of license. R. S. c. 54, § 9. Fraternal beneficiary associations organized under the laws of another state or country which were transacting business in this state as herein defined, on the twenty-eighth day of February, eighteen hundred and eighty-nine, or which subsequently thereto have been legally admitted to transact business in this state and which now report or which shall report when requested to the insurance commissioner, may continue such business subject to the provisions of the first twenty-seven sections of this chapter. A fraternal beneficiary association which was not transacting business in this state on the twenty-eighth day of February, eighteen hundred and eighty-nine, and which has not since been legally admitted to transact business therein and which may desire to do so, shall first obtain a license therefor from the insurance commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association and a copy of its constitution or laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner, as hereinafter provided; a statement under oath of the president and secretary, or corresponding officers, in the form required by the commissioner, of its business for the preceding year; a certificate from the proper official in its home state or country, that the company is legally organized and that similar associations of this state may be admitted to transact business in said state or country; a copy of its application and policy or certificate, which must show that benefits are provided for by assessments upon persons holding similar contracts; and shall furnish the commissioner with such other information as he may deem necessary to a proper exhibit of its business and standing and plan of working; if he deems it expedient he may license such association to do business in this state in accordance with the provisions of this chapter; provided, however, that no license shall be issued to any such company unless it shall have adopted and have in force mortuary assessment rates which are not lower than those now indicated as necessary by the national fraternal congress mortality tables.

Sec. 10. Foreign associations admitted to appoint insurance commissioner to act as attorney upon whom service can be made; notice to association when process is served. R. S. c. 54, § 10. Each such association which, on the twenty-first day of March, nineteen hundred and one, was doing or was thereafter admitted to do, business within this state, and not having its principal office within this state, and not being organized under the laws of this state, shall appoint in writing the insurance commissioner and his successors in office to be its true and lawful attorney, upon whom all lawful process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served on said attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said insurance commissioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service upon such attorney shall be deemed sufficient service upon such association. When legal process against any such association is served upon said insurance commissioner, he shall immediately notify the association of such service by letter, prepaid and directed to its secretary or corresponding officer,

and shall within two days after such service forward to such officer, in the same manner a copy of the process served on him.

Sec. 11. Certificates valid on condition that all dues are paid; money collected for indemnity purposes must not be used for expenses. R. S. c. 54, § 11. No certificate issued by any such association transacting business under this chapter shall be valid or legal which shall be conditional upon an agreement or understanding that the beneficiary shall pay the dues and assessments, or either of them for said member. Every call for a payment by the policy or certificate holders shall distinctly state the purpose of the same. No part of the money collected for mortuary or indemnity purposes or for the emergency or reserve fund shall be used for expenses; provided, that any such association transacting business in this state on the twenty-first day of March, nineteen hundred and one, and whose laws provide for and which is now using such funds for expenses, may continue to do so, but not to exceed the amount named for that purpose in such existing laws.

Sec. 12. Fraternal beneficiary associations; organizations included. R. S. c. 54, § 12. Fraternal beneficiary associations transacting business in this state on the twenty-eighth day of February, eighteen hundred and eighty-nine, as heretofore defined and named in section nine of this chapter, shall include those so transacting business through their supreme bodies, or by a subordinate body, or by one affiliated therewith or rendering allegiance thereto, or by an organization embracing a portion of the territory of any such association and at that time or subsequent thereto contributing to its funds, or by one using its ritualistic work and calling its members by the same general name; and no change since that time or hereafter, in the internal divisions or operations of any such association, or its relations with subordinate bodies, shall deprive it of the power to so transact business through its supreme body and subordinate and affiliated divisions or agents, or to prevent such subordinate or affiliated bodies from doing business, so long as death benefits are paid, and they shall be considered as legally organized and duly authorized for such purpose under the provisions hereof and may transact business in this state as independent bodies only in the event that said supreme body shall cease to transact business herein.

Associations for Casualty Insurance.

Sec. 13. Fraternal associations paying accident benefits may be incorporated. R. S. c. 54, § 13. Any fraternal beneficiary association or order, which is carried on for the sole benefit of its members or their beneficiaries, and not for profit, which has a lodge system with a ritualistic form of work and representative form of government, and which provides benefits for the death or disability of its members resulting from accidental injuries, and does not obligate itself to pay natural death or funeral benefits, may be organized in this state in accordance with the provisions of the first twenty-seven sections of this chapter; and any such association or order duly incorporated under the laws of another state or country may be authorized to do business in this state upon complying with the provisions of said sections; provided, however, that no such association shall be obliged to adopt mortuary assessment rates or to require a medical examination.

Licenses to Agents and Supervision by Insurance Commissioner.

Sec. 14. Associations file certificate of appointment of agents with commissioners; licenses to agents; penalty for acting as agent without license. R. S.

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c. 54, § 14. Any association authorized to transact business as defined in the first twenty-seven sections of this chapter, may employ paid agents in soliciting business but no person shall act as such agent until the association or its authorized manager has filed with the insurance commissioner a certificate certifying that such person has been appointed as the agent of the association. Upon receiving such certificate the commissioner may issue a license to such person, authorizing him to transact business in this state in accordance with the provisions of said sections and such license shall expire on the first day of the next July, but no license shall be issued under the provisions of this section to firms or corporations. If any person acts as such agent without first receiving such license, or fraudulently assumes to be an agent and solicits or procures risks or receives money for premiums or assessments, he forfeits not less than fifty dollars nor more than one hundred dollars for each offense, but any policy or certificate issued on such application binds the association, if otherwise valid.

Sec. 15. Penalty for soliciting for associations not authorized. R. S. c. 54, § 15. Any person who shall solicit membership for, or in any manner assist in procuring membership in any such association doing a business not authorized by the first twenty-seven sections of this chapter, or who shall solicit membership for, or in any manner assist in procuring membership in any such association not authorized, as herein provided, to do business as therein defined, in this state, shall be punished by a fine of not less than fifty, nor more than two hundred dollars.

Sec. 16. Associations to report to commissioner annually; penalty for neglect to make returns. R. S. c. 54, § 16. Every association doing business as a fraternal beneficiary association as herein defined shall annually, on or before the first day of March, report to the insurance commissioner the names and addresses of its president, secretary and treasurer, or other officers corresponding thereto, and shall make under oath such further statements of its membership and financial transactions for the year ending on the preceding thirty-first day of December, with other information relating thereto, as said commissioner may deem necessary to a proper exhibit of its business and standing; and the commissioner may at any other times require any further statement he may deem necessary to be made relating to such association. Any such association which neglects or refuses to make the returns required by this section shall forfeit five dollars a day for each day's neglect; and for wilfully making a false statement, the association and the persons making oath thereto, or subscribing the same, shall severally be punished by a fine of not less than one hundred, nor more than five hundred dollars.

Sec. 17. Benefit, charity, or relief funds not to be liable to attachment. R. S. c. 54, § 17. The money or other benefit, charity, relief or aid to be paid, provided or rendered, or which has been paid, provided or rendered by any fraternal beneficiary association authorized to do business under this chapter, and as herein provided, shall not be liable to attachment by trustee, or other process, and shall not be seized, taken or appropriated, or applied by any legal or equitable process, nor by operation of law, to pay any debt or liability of a certificate holder, or any beneficiary thereof, existing at the death of such holder; provided that the foregoing provisions shall not apply to debts contracted for the purpose of paying assessments or dues in order to keep such certificates in force.

See c. 88, § 21; *96 Me. 34; 98 Me. 342.

Sec. 18. Any agent or physician making false statements to be punished; making false statement concerning the death of certificate holders, declared to be perjury. R. S. c. 54, § 18. Any solicitor, agent or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or

representation in or with reference to any application for membership, or for the purpose of obtaining any money or benefit, in any such association transacting business under this chapter, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than one year; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring the payment of the benefit named in the certificate of such holder, shall be guilty of perjury, and upon conviction, shall be punished accordingly.

See c. 133, § 1.

Sec. 19. Exemption of certain orders and associations; but association of more than three hundred members not exempt. R. S. c. 54, § 19. Nothing contained in the first twenty-seven sections of this chapter shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, Knights of Pythias or similar orders, organized or incorporated under the laws of this state, and which do not have as their principal object the issuance of insurance certificates. Nor shall anything therein contained apply to domestic corporations or voluntary associations which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description which do not operate with a view to profit and which do not provide for a funeral benefit of more than one hundred dollars, or sick or disability benefits of more than one hundred and fifty dollars, to any one person in any one year. Provided, always, that any association which has more than three hundred members and which issues to any person a certificate providing for the payment of benefits shall not be exempt by the provisions of this section, and such associations shall comply with all requirements of this chapter relating to fraternal beneficiary associations. The insurance commissioner may require of any association such information relating to its membership and certificates as will enable him to determine whether it is exempt from the provisions hereof. And no association which is exempt by the provisions of this section from the requirements hereof, shall employ paid agents or give or allow to any person any compensation for procuring new members.

Sec. 20. Examination by insurance commissioner; proceedings when business becomes hazardous; receiver may be appointed and affairs closed; fees. R. S. c. 54, § 20. The insurance commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any domestic association subject to the provisions of this chapter relating to fraternal beneficiary associations, that are conferred upon him by the provisions of this chapter, provided, that he shall not be required to make periodical examinations of domestic associations. Whenever after examination the commissioner is satisfied that any domestic association is not paying the maximum amount named in its policies or certificates in full or is in such condition as to render further proceedings hazardous to the public or its policy-holders or is transacting its business fraudulently; or whenever such domestic association shall, after the existence of one year or more, have a membership of less than three hundred, the insurance commissioner may present the facts in relation to the same to any justice of the supreme judicial court; and said justice shall thereupon notify the officers of such association of a hearing and unless it shall then appear that some special and good reason exists why the association should not be closed, some person shall be appointed receiver of such association and shall proceed at once to take

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possession of the books, papers, moneys and other assets of the association, and shall forthwith, under the direction of the court proceed to close the affairs of such association and to distribute to those entitled thereto its funds in the manner provided in section seven. For this service the receiver may be allowed out of any funds in possession of the association or which may come therefrom into his hands, such sum as the court may determine to be reasonable and just. When the affairs of the association shall be finally closed, the court shall decree a dissolution of the same.

Sec. 21. Certain associations may continue to do business. R. S. c. 54, § 21. Fraternal beneficiary associations, organized or incorporated under the laws of this state, which were transacting business herein on the twenty-first day of March, nineteen hundred and one, and which limit their membership to the members of some particular order, class or fraternity may continue such business by complying with the provisions hereof not inconsistent therewith.

Sec. 22. Commissioner may examine foreign associations, applying for admission to the state; if examination is denied, association to be suspended. R. S. c. 54, § 22. Whenever the commissioner deems it prudent for the protection of the policy or certificate holders in this state he, or any person whom he may appoint, may examine any foreign fraternal beneficiary association applying for admission or transacting business in this state and such association shall pay the expenses of the examination. The commissioner may employ assistants and for the purposes aforesaid he, or any person he may appoint, shall have free access to all the books and papers that relate to the business of such association and to the books and papers kept by any of its organizers and may summon and qualify as witnesses under oath, and examine the directors, officers, agents, organizers, and trustees of such association and other persons in relation to its affairs, transactions and condition. He may accept in lieu of such examination the examination of the insurance department of the state or country where such foreign association is organized. If any such association, or its officers or agents, refuse to submit to such examination or to comply with the provisions of this section relating thereto, the authority of such association to transact business in this state shall be suspended until satisfactory evidence is furnished the commissioner relating to the standing and affairs of the association, and during such suspension the association shall not transact any business in this state.

Sec. 23. License may be revoked; appeal and proceedings thereon. R. S. c. 54, § 23. When the commissioner, on investigation, is satisfied that any association organized under the laws of another state or country and transacting business under the first twenty-seven sections of this chapter has exceeded its powers, or has failed to comply with any provision of law, or is conducting business fraudulently, or that its condition is such as to render further proceedings hazardous to the public or to its certificate holders, or in case any such association shall vote to discontinue its business, he shall notify the president and secretary, or other officers corresponding thereto of his findings, and state the grounds of his dissatisfaction and after thirty days' notice require said association, on a date named, to show cause why its license should not be revoked and its authority to transact business in this state terminated. If on the date named in said notice such objections have not been removed to the satisfaction of the commissioner, or the association does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of such association to continue business in this state. When the commissioner suspends or re-

votes the authority of any association to continue business in this state, or on application refuses to countermand such suspension or revocation the association may within thirty days apply to any justice 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 and a copy of said petition to be served on the commissioner, and after said hearing he may affirm or reverse the decision of the commissioner and the decision of such justice shall be final.

Sec. 24. Issuance of policies limited. R. S. c. 54, § 24. No association organized or doing business under the first twenty-seven sections of this chapter shall issue any policy or certificate upon the life of any person more than sixty years of age; nor on the life of any person who has not been examined by a reputable, practicing physician and passed a satisfactory medical examination. No person shall be admitted to membership in any such organization unless he has first filed an application with and been initiated in and becomes a member of a local branch. The by-laws of such association shall provide that meetings of such branches shall be held at least once each month.

Sec. 25. Laws of this and other states regarding fines and penalties to be reciprocal. R. S. c. 54, § 25. When the laws of any state or country under which any such association is organized or incorporated impose on fraternal associations of this state any additional or greater fees, fines, penalties, prohibitions or obligations than are imposed hereby upon similar associations of other states or countries, the same fees, fines, penalties, prohibitions or obligations shall be imposed upon the associations of such state or country applying for admission or transacting business in this state.

Sec. 26. Penalties and prosecutions. R. S. c. 54, § 26. Any association neglecting or refusing to comply with, or violating the provisions hereof relating to fraternal beneficiary associations, shall be fined not exceeding two hundred dollars upon conviction thereof. Prosecutions for such violations may be commenced by complaint and warrant before any municipal or police judge or trial justice as in the case of other offenses not within the final jurisdiction of such judge or justice, as provided in section five of chapter one hundred and forty-four.

Sec. 27. Term "association" construed. R. S. c. 54, § 27. The word "association" as used in the twenty-six preceding sections shall be taken and construed as meaning a corporation, society or voluntary association.

Foreign Associations and Casualty Insurance.

Sec. 28. Foreign fraternal beneficiary associations transacting casualty insurance licensed. R. S. c. 54, § 28. Any association organized or incorporated under the laws of another state or country as a fraternal beneficiary association and which does not conduct its business upon the lodge system with a ritualistic form of work and a representative form of government, in accordance with the provisions of section one of this chapter, and which is not subject to the statutes of this state regulating fraternal beneficiary associations, but which confines its membership to the members of some particular order, class or fraternity, and which has the membership and qualifications herein required, may be licensed by the insurance commissioner to transact the business of casualty insurance on the assessment plan and to provide for the payment of death or funeral benefits of not exceeding one hundred dollars to the beneficiaries of deceased members, subject to and in accordance with the provisions of the three following sections.

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Sec. 29. Such association must be licensed; prerequisites to receiving license; termination of license. R. S. c. 54, § 29. No such association shall transact any business in this state without a license from the insurance commissioner. Before receiving such license it shall file with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and by-laws certified by its secretary; a power of attorney to the commissioner as provided by section ten of this chapter; a statement under oath of its president and secretary, in the form required by the commissioner, duly verified by an examination of its business for the preceding year, made in accordance with the provisions of section twenty-two of this chapter, which statement and examination must show that the association had at least five thousand members in good standing at the date of such report, and that it had on that date available assets in excess of all known liabilities of not less than twenty thousand dollars; a copy of its policy and application which must show that benefits are provided for by assessments upon or other payments by persons holding similar contracts; a certificate of deposit from the treasurer of state as hereinafter provided, and shall furnish the insurance commissioner with such further information as he may deem necessary to a proper exhibit of its business and plan of working. Upon compliance with the foregoing provisions the commissioner may license such association to transact business in this state as herein defined until the first day of the succeeding July, and such license may thereafter be renewed annually, but in all cases to terminate on the first day of the next succeeding July. The provisions of section one hundred and sixty-eight of chapter fifty-nine, and of sections ten, fourteen, sixteen, seventeen, eighteen, twenty-two and twenty-three of this chapter shall apply to such associations.

Sec. 30. Deposit with treasurer of state required; to be held in trust for policy holders. R. S. c. 54, § 30. No license shall be issued to any such association until it has deposited with the treasurer of state securities which are a legal investment for savings banks of this state amounting to not less than the maximum policy issued by such association nor to less than one thousand dollars. The treasurer of state shall receive such securities and hold the same on deposit and in trust for the benefit of all the policy-holders of the association in this state, and shall receipt for and hold the same in the manner provided in sections seventy-five and seventy-six of chapter fifty-nine, but he shall retain and hold the same as long as any liability remains outstanding in this state. Whenever any judgment obtained in a court of competent jurisdiction in this state, by a policy-holder or any beneficiary thereof, remains unsatisfied for more than sixty days after legal demand upon the association, and no appeal from the decision of said court is pending, said court may issue an order directing the treasurer of state to immediately convert so much of said deposit as may be necessary into cash and to forthwith satisfy said judgment and such additional costs appertaining thereto as said court may allow, and the treasurer shall immediately comply with said order, and the association shall not transact any further business in this state until such deposit is restored. When any such association discontinues business in this state, and the insurance commissioner is satisfied upon investigation that the association has no liabilities outstanding therein, he shall so certify to the treasurer of state, who shall thereupon return said deposit to the association.

Sec. 31. Assessments; reserve fund not to be used for expenses. R. S. c. 54, § 31. Every call for a payment by the policy-holders of any such association shall distinctly state the purpose of the same, and no part of the money col-

lected for the payment of indemnity claims or death or funeral benefits and no part of the reserve or emergency fund shall be used for expenses.

Note. Protection of fraternal beneficiary associations in use of names and emblems, c. 70, §§ 8-10.

Whole Family Protection.

Sec. 32. Fraternal beneficiary societies may insure children between ages of one and eighteen; schedule of benefits permitted. 1917, c. 9, § 1. 1927, c. 29. Any fraternal beneficiary society, authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws in addition to other benefits provided for therein, for the payment of death, endowment or annuity benefits upon the lives of children between the ages of one and eighteen years at the next birthday, for whose support and maintenance a member of the society is responsible. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total death benefits payable as above provided shall in no case exceed the following amounts at the next birthday after death, respectively, as follows: one, twenty-five dollars; two, fifty dollars; three, seventy-five dollars; four, one hundred dollars; five, one hundred thirty dollars; six, one hundred and seventy-five dollars; seven, two hundred dollars; eight, two hundred fifty dollars; nine, three hundred twenty-five dollars; ten, four hundred dollars; eleven, five hundred dollars; twelve, six hundred dollars; thirteen, seven hundred dollars; fourteen, eight hundred dollars; fifteen, nine hundred dollars; and sixteen to eighteen years, where not otherwise authorized by law, one thousand dollars.

Sec. 33. Subscriptions to aggregate 500 before benefit certificate is issued. 1917, c. 9, § 2. No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificates be issued until the society shall have at least five hundred subscriptions therefor, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificates falls below five hundred. The death benefit contributions to be made upon such certificates shall be based upon the "Standard Industrial Mortality Table" or the "English Life Table Number Six" and a rate of interest not greater than four per cent per annum, or upon a higher standard; provided that contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws, and, provided further that extra contributions shall be made if the reserves hereafter provided for become impaired.

Sec. 34. Reserve must be maintained; certificate may be changed when child reaches minimum age of initiation; original beneficiary to have no claim on new certificate. 1917, c. 9, § 3. Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions as provided in section two, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized; provided, that a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any

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other form of certificate issued by the society, provided that such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

Sec. 35. Society must make separate financial statement to insurance commissioner; accounts to be kept separate as long as certificates remain in force. 1917, c. 9, § 4. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the insurance commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded, or modified, nor shall the funds be diverted for any use other than as specified in section three, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

Sec. 36. Constitution and by-laws may provide for specified payments. 1917, c. 9, § 5. Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

Sec. 37. Child's certificate may be continued after termination of membership of person responsible for its support. 1917, c. 9, § 6. In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions.

Note. Death benefits payable only in money. See R. S. c. 59, sec. 173.

CHAPTER 61.

The Public Utilities Commission.

Sections 1-15	Appointment, and General Authority and Duties.
Section 16	Definitions of Words and Phrases.
Sections 17-36	Rates and Accounting.
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Section 40	Investigation of Accidents.
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Appointment, and General Authority and Duties.

Sec. 1. Appointment of commissioners; tenure of office; vacancies; clerks and their duties; chief inspector of utilities; office and equipment. R. S. c. 55, § 1. The Public Utilities Commission as heretofore established, shall consist of three members appointed by the governor, with the advice and consent of the council, from time to time upon the expiration of the terms of the several members, for terms of seven years; any vacancy occurring in said commission shall be filled by appointment for the unexpired portion of the term in which such vacancy occurs. One member of the commission shall be designated by the governor as chairman. The commission shall adopt and have a seal and be provided with an office at the state house in which its records shall be kept. Under the direction of the governor and council the commission may expend such sums of money as may be necessary for the purchase of books, maps, stationery, office furniture, and supplies, for procuring statistics and information and for defraying expenses incidental to the discharge of its duties; a statement of such expenses shall accompany its annual report. The commission shall appoint a clerk and an assistant clerk, also a chief inspector of utilities, who shall be a practical railroad man and shall perform such duties as the commission may require. The clerk shall keep a full and minute record of the proceedings of the commission which shall be open to public inspection at all times. The assistant clerk shall assist the clerk in the performance of his duties, and in the absence of the clerk shall have the same powers as the clerk. The commission shall have custody and control of all records, maps, and papers pertaining to the offices of the former board of railroad commissioners and the former state water storage commission.

Sec. 2. Members of commission and employees not to be connected with any public utility, nor shall commissioner hold other office; removal for violation of this section. R. S. c. 55, § 2. 1923, c. 42. No member or employee of said commission shall have any official or professional connection or relation with or hold any stock or securities in any public utility as herein defined, operating within the State of Maine, nor shall he render any professional service against any such

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public utility, nor shall he be a member of a firm which shall render any such service. No commissioner shall hold any other civil office of profit or trust under the government of the United States or of this state except the office of justice of the peace or notary public, nor shall he serve on or under any committee of any political party. Any wilful violation of the provisions of this chapter by any commissioner shall constitute sufficient cause for his removal by the governor with the advice and consent of the council.

Sec. 3. Commission may employ expert assistance. R. S. c. 55, § 3. The commission may employ such expert, professional, or other assistance as is necessary in making investigations or in otherwise carrying out the provisions of this chapter, and may make all necessary rules and regulations.

Sec. 4. Investigation by commission. R. S. c. 55, § 4. The commission shall have authority to inquire into the management of the business of all public utilities, and shall keep itself informed as to the manner and method in which each is conducted; and shall have the right to obtain from any public utility all necessary information to enable the commission to perform its duties.

118 Me. 367, 376.

Sec. 5. Commission may inspect books and papers; agents to produce authority to inspect; not to divulge information; penalty. R. S. c. 55, § 5. The commission or any commissioner or any person or persons employed by the commission for that purpose, shall, upon demand, have the right to inspect the books, accounts, papers, records, and memoranda of any public utility in relation to its business and affairs and to take copies thereof. Any person other than one of said commissioners who shall make such demand shall produce his authority to make such inspection. Such person or persons so employed shall not directly or indirectly divulge any information so derived to any one except to the commission or under direction of the commission. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars and by imprisonment for not more than one year.

124 Me. 319.

Sec. 6. Public utilities to furnish information. R. S. c. 55, § 6. Every public utility shall furnish the commission with all information necessary to carry into effect the provisions of this chapter; and in case it is unable to furnish such information it shall give a good and sufficient reason for such failure, and the reason for such failure shall be verified by an officer, owner, or agent of such public utility and returned to the commission at its office within the time fixed by the commission.

121 Me. 430.

Sec. 7. Commission may serve order for production of books and papers; penalty for failure to obey order. R. S. c. 55, § 7. The commission may require, by order or subpoena to be served on any public utility in the same manner that a summons is served in a civil action in the supreme judicial court, the production within this state at such time and place as it may designate, of any books, accounts, papers, or records kept by said public utility and within its control in any office or place within or outside the state, or verified copies thereof instead, if the commission shall so order, so that an examination thereof may be made by the commission or under its direction. Any public utility or any officer, agent, or attorney thereof failing or refusing to comply with any such order or subpoena shall, for each day it shall so fail or refuse, forfeit and pay into the state treasury a sum not less than fifty dollars nor more than five hundred dollars to be recovered by the state in an action on the case, which may be instituted by the commission in the name of the state.

Sec. 8. Commission to inquire into violations of law by public utilities; at-

torney-general and county attorneys to aid commission; actions to recover penalties. R. S. c. 55, § 8. The commission shall inquire into any neglect or violation of the laws of the state by any public utility doing business therein, or by the officers, agents or employees thereof or by any person operating the plant of any public utility; and shall enforce the provisions of this chapter and all other laws relating to public utilities and shall report all violations thereof to the attorney-general. Upon the request of the commission the attorney-general or the county attorney of the proper county shall aid in any investigation, hearing, or trial had under the provisions of this chapter, and shall institute and prosecute all necessary actions or proceedings for the enforcement of this chapter and of all other laws of this state relating to public utilities and to the punishment of all violations thereof. Any forfeiture or penalty herein provided shall be recovered and suit therefor be brought in the name of the state in the supreme judicial court in the county where the main office of the public utility is located or in Kennebec county. Complaint for the recovery of any such forfeiture may be made by the commission or any member thereof, and when so made the action so commenced shall be prosecuted by the attorney-general. The commission may employ counsel in any proceeding, investigation or trial.

Sec. 9. Commission to collect information relating to water powers of state. R. S. c. 55, § 9. 1919, c. 132. 1925, c. 187. The commission shall collect information relating to the water powers of the state, the flow of rivers and their drainage area, the location, nature, and size of the lakes and ponds in the state and their respective value and capacity as storage reservoirs, and such other hydrographic data as they may deem of value in devising the best methods for the improvement of the natural storage basins of the state, and the creation of new storage reservoirs, with a view to conserving and increasing the capacity of the water powers of the state.

Sec. 10. Authorized to confer with U. S. Geological Survey. R. S. c. 55, § 10. 1919, c. 132. 1925, c. 187. The commission may confer with the director or the representative of the United States geological survey and accept its co-operation in the prosecution of hydrographic and geological surveys, and the preparation of a contour topographic survey and map of the state.

See c. 2, § 25.

Sec. 11. Plans of proposed dams to be filed with commission before commencing construction thereof. R. S. c. 55, § 11. 1919, c. 132. 1925, c. 187. Every person, firm, or corporation before commencing the erection of a dam for the purpose of developing any water power in this state, or the creation or improvement of a water storage basin or reservoir for the purpose of controlling the waters of any of the lakes or rivers of the state, shall file with said commission for its information and use copies of plans for the construction of any such dam or storage basin or reservoir, and a statement giving the location, height, and nature of the proposed dam and appurtenant structures and the estimated power to be developed thereby; and in case a dam is to be constructed solely for the purpose of water storage and not for the development of a water power at its site, plans and statements shall be filed with the commission showing the extent of the land to be flowed, the estimated number of cubic feet of water that may be stored, and the estimated effect upon the flow of the stream or streams to be affected thereby.

Sec. 12. Commission to publish in biennial report data relating to water powers and resources; to report water storage capacity and other data relating to dams proposed to be constructed. R. S. c. 55, §§ 12, 13. 1919, c. 132. 1925, c. 187. The commission shall publish in its biennial report an account of its opera-

tions and include such data as it may deem advisable bearing on the water powers and water resources of the state; and may report upon a comprehensive and practical plan for the improvement and creation of such water storage basins and reservoirs as will tend to develop and conserve the water powers of the state. The commission may also report so far as its investigations will permit on the development of the water powers of the state with reference to the general plan proposed so that the legislature may have before it a comprehensive summary of the possibilities that lie in the development of the water powers of the state, as a natural resource and the necessary steps that should be taken by the state to further increase and conserve them.

So far as any proposed plan devised by the commission for the improvement and increase of water storage basins or reservoirs shall include the construction of a dam or dams upon or at the head waters of any river or water course, the commission shall ascertain and report as nearly as may be the water storage capacity in cubic feet of the reservoir to be created, the recorded rainfall on the watershed above such proposed dam, and the maximum, minimum, and average flow of water per second in cubic feet during each month in the year in said river or water course. They shall as nearly as practicable estimate the increased power that would be developed by such proposed dam in the rivers or streams to be affected thereby.

Sec. 13. Commission to take possession of all records, maps, property, etc. of Maine water power commission. R. S. c. 55, § 14. 1919, c. 132. 1925, c. 187. The public utilities commission is hereby authorized and directed to take possession of all records, maps, papers, instruments, and property that were by it transferred to the Maine water power commission by authority of chapter one hundred and thirty-two of the public laws of nineteen hundred and nineteen, and also all records, maps, and papers that said Maine water power commission has since compiled and collected in carrying out the provisions of said chapter.

Sec. 14. Commission to advise municipalities as to purification of water supply and disposal of sewage; complaints of pollution, procedure, appeal; jurisdiction. 1917, c. 98. The public utilities commission shall consult with and advise the authorities of cities and towns and persons and corporations having, or about to have, systems of water supply, drainage, or sewerage as to the most appropriate source of water supply and the best method of assuring its purity or as to the best method of disposing of their drainage or sewage with reference to the existing and future needs of other cities, towns, or persons or corporations which may be affected thereby. It shall also consult with and advise persons or corporations engaged or intending to engage in any manufacturing or other business whose drainage or sewage may tend to pollute any inland water, as to the best method of preventing such pollution, and it may conduct experiments to determine the best method of the purification or disposal of drainage or sewage. No person shall be required to bear the expense of such consultation, advice, or experiment. Cities, towns, persons, and corporations shall submit to said commission for its advice their proposed system of water supply or of the disposal of drainage or sewage and all petitions to the legislature for authority to introduce a system of water supply, drainage, or sewerage shall be accompanied by a copy of the recommendation and advice of said commission thereon. In this section the term "drainage" means rainfall, surface and subsoil water only, and "sewage" means domestic and manufacturing filth and refuse.

Upon petition to said commission by the mayor of a city or the selectmen of a town the managing board or officer of any public institution, or by a board of water commissioners, or the president or other official of a water or ice company,

stating that manure, excrement, garbage, sewage, or any other matter pollutes or tends to pollute the waters of any stream, pond, spring, or water course used by such city, town, institution, or company, as a source of water supply, the commission shall appoint a time and place within the county where the nuisance or pollution is alleged to exist for a hearing, and after such notice thereof to parties interested and a hearing, if in its judgment the public health so requires, may, by an order served upon the party causing or permitting such pollution, prohibit the deposit, keeping, or discharge of any such cause of pollution, and shall order him to desist therefrom and to remove any such cause of pollution; but the commission shall not prohibit the cultivation and use of the soil in the ordinary methods of agriculture if no human excrement is used thereon. Said commission shall not prohibit the use of any structure which was in existence on or before the first day of January, nineteen hundred and seventeen, upon a complaint made by any city, town, corporation, or water district, water or ice company, unless such city, town, corporation, water district, or company files with said commission a vote of its city council, selectmen, corporation, water district, or company that such city, town, corporation, water district, or company will, at its own expense, make such changes in said structure or its location as said commission shall deem expedient. Such vote shall be binding on such city, town, corporation, water district, or company and all damages caused by any such change shall be paid by such city, town, corporation, water district, or company. If the parties cannot agree thereon, the damage shall, on petition of either party, filed within one year after such changes are made, be assessed by a jury in the supreme judicial court for the county where such structure is located.

Whoever is aggrieved by an order passed under the provisions of the preceding section may appeal therefrom to the supreme judicial court sitting in the county where appellant resides; but such notice of the pendency of the appeal as the court shall order shall also be given to the board of water commissioners and the mayor of the city or chairman of the selectmen of the town or president or other officer of the water or ice company interested in such order. While the appeal is pending, the order of the commission shall be complied with unless otherwise authorized by the commission.

The supreme judicial court shall have jurisdiction in equity, upon the application of the public utilities commission or of any party interested, to enforce its orders, or the orders, rules, and regulations of said public utilities commission, and to restrain the use or occupation of the premises or such portion thereof as said commission may specify, on which said material is deposited or kept, or such other cause of pollution exists until the orders, rules, and regulations of said commission have been complied with.

The agents and servants of said public utilities commission may enter any building, structure, or premises for the purpose of ascertaining whether sources of pollution or danger to the water supply there exists, and whether the rules, regulations, and orders aforesaid are obeyed.

Unless the public utilities commission determines that public health will not thereby be seriously injured, no sewage, drainage, refuse, or polluting matter of such kind and amount as either by itself or in connection with other matter will corrupt or impair the quality of the water of any pond or stream used as a source of ice or water supply by a city, town, public institution, or water company for domestic use or render it injurious to health, and no human excrement shall be discharged into any such pond or stream or upon the banks thereof if any filtering basin in use is there situated. The prohibition against the deposit of sewage, draining, refuse, polluting matter, and human excrement shall not apply to the

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following rivers, namely, the Penobscot, the Kennebec, the Androscoggin, and the Saco.

See § 83.

Sec. 15. Commission to prepare rules governing use and operation of headlights on electric cars. 1921, c. 150. The public utilities commission shall prepare rules and regulations from time to time governing the use and operation of headlights on electric cars, and may from time to time alter, rescind, or add to any rules and regulations previously made by it. The rules and regulations of the commission and any changes therein shall take effect when approved by the governor and council and published at least once in each daily newspaper in the state. The certificate of the clerk of the public utilities commission shall be received as prima facie evidence in any court of law to prove that said rules and regulations have been prepared, approved, and published as herein provided.

See c. 29, §§ 70, 72.

Definitions.

Sec. 16. Words and phrases defined. R. S. c. 55, § 15. 1917, c. 48, § 4. The term "commission" when used in this chapter, means the Public Utilities Commission.

The term "commissioner" when used in this chapter, means one of the members of the commission.

The term "corporation" when used in this chapter, includes municipal and quasi-municipal corporations.

The term "person" when used in this chapter, includes an individual, a copartnership, and a voluntary association.

The term "transportation of persons" when used in this chapter, includes every service in connection with or incidental to the safety, comfort, and convenience of the person transported and the receipt, carriage, and delivery for such person and his baggage.

The term "transportation of property" when used in this chapter, includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and handling, and the transmission of credit by express or telegraph companies.

The term "street railroad" when used in this chapter, includes every railway, and each and every branch or extension thereof, by whatsoever power operated, being mainly upon, along, above or below any street, avenue, road, highway, bridge, or public place within any city or town, together with all real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

The term "street railroad company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any street railroad for compensation within this state.

The term "railroad" when used in this chapter, includes every commercial, interurban, and other railway other than a street railroad and each and every branch and extension thereof by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depots, union depots, ferries, yards, grounds, terminals, terminal facilities structures, and equipment and all other real estate, fixtures, and personal property of every kind used

in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

The term "railroad company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any railroad for compensation within this state.

The term "express company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise, or other property for compensation on the line of any common carrier or over any stage line or auto stage line within the state.

The term "common carrier" when used in this chapter, includes every railroad company, street railroad company, express company, dispatch, sleeping-car, dining-car, drawing-room car, freight, freight line, refrigerator, oil, stock, fruit, car loaning, car renting, car loading and every other car corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, operating for compensation within this state; and every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any vessel regularly engaged in the transportation of persons or property for compensation upon the waters of this state or upon the high seas, over regular routes between points within this state.

The term "gas plant" when used in this chapter, includes all real estate, fixtures and personal property, owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas for light, heat, or power.

The term "gas company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

The term "electric plant" when used in this chapter, includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, for public use and all conduits, ducts, or other devices, materials, apparatus or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power for public use.

The term "electrical company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

The term "telephone line" when used in this chapter, includes all conduits, ducts, poles, wires, cables, instruments, and appliances and all other real estate, fixtures and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.

The term "telephone company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any

court whatsoever, owning, controlling, operating, or managing any telephone line for compensation within this state.

The term "telegraph line" when used in this chapter, includes all conduits, ducts, poles, wires, cables, instruments, and appliances and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether such communication is had with or without the use of transmission wires.

The term "telegraph company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any telegraph line for compensation within this state.

The term "water-works" when used in this chapter, includes all reservoirs, tunnels, shafts, dams, dikes, head-gates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property, owned controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, apportionment, or measurement of water for municipal and domestic use.

The term "water company" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any water-works for compensation within this state.

The term "vessel" when used in this chapter, includes every steamboat which is owned, controlled, operated, or managed for public use, in the transportation of persons or property for compensation within this state.

The term "wharfinger" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any dock, wharf, or structure used by vessels in connection with or to facilitate the receipt or discharge of freight or passengers for compensation within this state.

The term "warehouseman" when used in this chapter, includes every corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled, or managed by a wharfinger.

The term "public utility" when used in this chapter, includes every common carrier, gas company, electrical company, telephone company, telegraph company, water company, wharfinger, and warehouseman, as those terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control, and regulation of the commission, and to the provisions of this chapter.

The term "steam railroad" or "steam railroad company" as used herein shall be construed to mean any railroad or terminal company, however chartered, using steam as its motive power. And the term "electric railroad" or "electric railroad company" as used herein shall be construed to mean any railroad or terminal company using electricity as its motive power.

Rates and Accounting.

Sec. 17. Public utility to furnish safe and reasonable facilities; charges to be reasonable and just. R. S. c. 55, § 16. Every public utility is required to furnish safe, reasonable, and adequate facilities. The rate, toll, or charge, or any joint rate made, exacted, demanded, or collected by any public utility for the conveyance or transportation of persons or property between points within this state, or for any heat, light, water, or power produced, transmitted, delivered, or furnished, or for any telephone or telegraph message conveyed, or for any service rendered or to be rendered in connection with any public utility, shall be reasonable and just, taking into due consideration the fair value of all its property with a fair return thereon, its rights and plant as a going concern, business risk, and depreciation. Every unjust or unreasonable charge for such service is hereby prohibited and declared unlawful.

118 Me. 374, 388; 125 Me. 448.

Sec 18. Commission to prescribe uniform system of accounts. R. S. c. 55, § 17. Every public utility shall keep and render to the commission in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for any class of public utilities the commission shall consider any system of accounting established by any federal law, commission, or department, and any system authorized by the national association of such utilities.

Sec. 19. Utility may be required to render account of subsidiary business. R. S. c. 55, § 18. Every public utility engaged directly or indirectly in any other subsidiary business shall, if ordered by the commission, keep and render separately to the commission in like manner and form, the accounts of all such business, in which case all the provisions of this chapter shall apply with like force and effect to the books, accounts, papers, and records of such other business.

Sec. 20. Commission to prescribe forms of all books and records; foreign public utility exempt, but to appoint a resident agent. R. S. c. 55, § 19. The commission shall prescribe the forms of all books, accounts, papers, and records required to be kept, and every public utility is required to keep and render its books, accounts, papers, and records accurately and faithfully in the manner and form prescribed by the commission and to comply with all directions of the commission relating to such books, accounts, papers, and records; provided that the requirements of this section shall not apply to a public utility having no property located within this state other than such as is employed therein while in transit, but every such public utility shall appoint an agent residing in this state upon whom all notices, processes of the commission, or other papers relating to the provisions of this chapter may be served, and shall file a copy of such appointment with the clerk of the commission.

Sec. 21. Commission to prepare blanks. R. S. c. 55, § 20. The commission shall cause suitable blanks to be prepared, for carrying out the purposes of this chapter, and shall when necessary, furnish such blanks to each public utility.

Sec. 22. Other systems prohibited. R. S. c. 55, § 21. No public utility shall keep any other books, accounts, papers, or records of its business transacted than those prescribed or approved by the commission; provided, however, that nothing contained in this chapter shall require any public utility engaged in interstate commerce, to do, or not to do, anything contrary to the requirements of any federal law, relating thereto.

Sec. 23. Accounts closed December 31st; balance sheet filed with commission. R. S. c. 55, § 22. 1917, c. 75. The accounts of all public utilities shall be closed annually on the thirty-first day of December, unless a different date is fixed by

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the public utilities commission, and a balance sheet of that date, or of the date so fixed, promptly taken therefrom. Within two months after said date, or the date so fixed, such balance sheet together with such other information as the commission shall prescribe, verified by an officer or owner of the public utility, shall be filed with the commission, provided, however, that said commission may by general order extend said time not exceeding one month.

Sec. 24. Audit of accounts. R. S. c. 55, § 23. The commission shall provide for the examination and audit of all accounts and all items shall be allocated to the accounts in the manner prescribed by the commission.

124 Me. 313.

Sec. 25. Authority of agents to inspect records of public utilities. R. S. c. 55, § 24. The agents, accountants, or examiners employed by the commission shall have authority within or outside the state under the direction of the commission to inspect and examine any and all books, accounts, papers, records, and memoranda kept by any public utility.

124 Me. 313.

Sec. 26. Public utility to file schedule of rates, and rules and regulations. R. S. c. 55, § 25. Every public utility shall file with the commission within a time to be fixed by the commission, schedules which shall be open to public inspection, showing all rates, tolls, and charges which it has established and which are in force at the time for any service performed by it within the state, or for any service in connection therewith or performed by any public utility controlled or operated by it or in conjunction therewith. The rates, tolls, and charges shown on the schedules first to be filed shall not exceed the rates, tolls, and charges which were in force on January first, nineteen hundred and thirteen, except that the rates, tolls, and charges of utilities under the jurisdiction of the Interstate Commerce Commission, shown on the schedules first to be filed, shall be the rates, tolls, and charges in force on the thirty-first day of October, nineteen hundred and fourteen. Every public utility shall file with and as a part of such schedules all rules and regulations that in any manner affect the rates charged or to be charged for any service.

125 Me. 450; *126 Me. 145.

Sec. 27. Copy of schedules to be kept on file for the public. R. S. c. 55, § 26. A copy of so much of said schedules as the commission shall deem necessary for the use of the public shall be printed in plain type and kept on file in every station or office of said public utility where payments are made by the consumers or users, open to the public under such rules and regulations as may be prescribed by the commission.

Sec. 28. Schedule of joint rates. R. S. c. 55, § 27. Where a schedule of joint rates or charges is or may be in force between two or more public utilities, such schedules shall in like manner be printed and filed with the commission and so much thereof as the commission shall deem for the use of the public shall be filed in every such station or office as provided in section twenty-seven of this chapter.

Sec. 29. Thirty days' notice to be given commission; new rates to be filed thirty days before effective; commission may use discretion. R. S. c. 55, § 28. 1917, c. 135. No change shall hereafter be made in any schedule, including schedules of joint rates, except upon thirty days' notice to the commission, and all such changes shall be plainly indicated upon existing schedules by filing new schedules in lieu thereof thirty days prior to the time the same are to take effect: Provided, that the commission may, in its discretion and for good cause shown, allow changes upon less than the notice herein specified, or modify the require-

ments of this section and the following section in respect to publishing, posting, and filing of tariffs, either in particular instances or by a general order applicable to special or peculiar circumstances or conditions.

118 Me. 393; 126 Me. 24.

Sec. 30. New tariffs to be filed at offices of company thirty days before effective. R. S. c. 55, § 29. 1917, c. 135. Copies of all new schedules shall be filed as hereinbefore provided in every station and office of such public utility, where payments are made by customers or users thirty days prior to the time the same are to take effect, unless the commission shall prescribe a less time as provided in the preceding section.

Sec. 31. Rates on through shipments over connecting lines, how established. R. S. c. 55, § 30. 1923, c. 120. It shall be unlawful for any public utility to charge, demand, collect, or receive a greater or less compensation, except as otherwise provided in section thirty-nine of this chapter, for any service performed by it within the state or for any service in connection therewith, than is specified in such printed schedules, including schedules of joint rates, as may at the time be in force, or to demand, collect, or receive any rate, toll, or charge not specified in such schedules, provided, however, that the total charges for through shipments over connecting lines of common carriers shall not exceed the combination of intermediate charges over the several lines between the two terminals of the shipment for the same commodity under the most favorable terms prescribed in the printed schedules of the connecting common carriers, and no carrier shall refuse to consign through to destination in this state, and no connecting carrier shall refuse to receive and transport on the combination of such intermediate charges any commodity which is regularly a subject of carriage and through billing or consignment on the same and such connecting lines. The rates, tolls, and charges named therein shall be the lawful rates, tolls, and charges until the same are changed as provided in this chapter. The commission may prescribe such changes in the form in which the schedules are issued by any public utility as may be found to be expedient.

125 Me. 450.

Sec. 32. Commission may order connecting steam railroads to establish joint rates. 1917, c. 36. The public utilities commission may, after hearing, on a complaint or upon its own motion without complaint, require any two or more railroads operated by steam whose lines form a continuous line of transportation, or could be made reasonably so to do by the construction and maintenance of switch connection or interchange track at connecting points, to establish through routes, and joint rates, fares, charges, and classifications for the transportation of property or passengers, provided there is no reasonable existing through route between the places it is desired to serve.

Sec. 33. Commission may prescribe joint rates. 1917, c. 36. On failure of such railroads to establish joint rates, fares, charges, or classifications, as provided in the preceding section, the commission may, in the same proceeding, or in a separate proceeding involving rates, fares, charges, or classifications, prescribe joint rates, fares, charges, and classifications as the maximum to be exacted for the transportation by them of property or passengers, and if such companies cannot agree as to the division of rates, fares, or the conditions under which such through rates or transportation shall be established or such cars or other equipment, operated, the commission may, after due hearing, determine and prescribe the proportionate portions of such through rates, fares, or charges payable to each of such companies necessary to the establishment of such through routes or transportation and the conditions under which such through routes or transpor-

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tation shall be established, or the conditions under which such cars or other equipment shall be operated.

Sec. 34. Commission may hold public hearing to investigate proposed change of rates by public utility; may suspend rate pending hearing. 1917, c. 44. Whenever the public utilities commission receives notice of any change or changes proposed to be made in any schedule of rates filed with said commission under the provisions of law it shall have power at any time before the effective date of such change or changes, either upon complaint or upon its own motion, and after reasonable notice, to hold a public hearing and make investigation as to the propriety of such proposed change or changes. At any such hearing involving any change or changes as above specified the burden of proof to show that such change is reasonable shall be upon the public utility. After such hearing and investigation the commission may make such order with reference to any new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement proposed as would be proper in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation.

Pending such investigation and order the commission may at any time within said period preceding the effective date of any such schedule, by filing with such schedule and delivering to the public utility affected thereby a statement of its reasons for said suspension, suspend the operation of such schedule or any part thereof, but not for a longer period than three months from the date of said order of suspension; provided however, that if said investigation cannot be concluded within said period of three months said commission may in its discretion extend the time of suspension for a further period of three months; and provided further that nothing in this section contained shall apply to any schedule filed with the commission and proposing any change or changes in any new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement affecting the transportation of freight.

Sec. 35. Proposed change in freight rates; joint hearing with interstate commerce commission authorized. 1917, c. 44. 1927, c. 188. Whenever the public utilities commission receives notice of any change or changes proposed to be made in any schedule of new rates, joint rates, fares, rentals, tolls, classifications, charges, rules, regulations, or forms of contract or agreement affecting the transportation of freight, and filed with said commission under the provisions of law, said commission shall have power at any time within thirty days after the effective date of such change or changes, either upon complaint or upon its own motion, and after reasonable notice, to hold a public hearing and make investigation as to the propriety of such proposed change or changes.

At any such hearing involving any change or changes as above specified the burden of proof to show that such change is reasonable shall be upon the common carrier. After such hearing and investigation the commission may make such order, within a period of not less than six months after the effective date of the schedule setting forth such change or changes with reference to any proposed new rate, joint rate, fare, rental, toll, classification, charge, rule, regulation, or form of contract or agreement proposed as would be proper under existing law in a proceeding initiated upon complaint or upon motion of the commission in any rate investigation; and in cases involving an increase in an existing rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight, if the commission shall find that such increase is unreasonable it may, by proper order, determine and fix the maximum rate, joint rate, toll, fare, rental, or charge which may thereafter be collected for the service rendered, and no rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight in excess

thereof shall be filed within a period of one year after the making of such order; and the commission, by proper order, may require the common carrier which has filed any such increased rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight to refund, in such manner and under such conditions as may be prescribed by the commission, to all persons from whom charges have been collected by virtue of the schedules under investigation, any and all sums collected in excess of the rate, joint rate, toll, fare, rental, or charge affecting the transportation of freight so determined and fixed by the commission as being the maximum rate, joint rate, toll, fare, rental, or charge to be collected, and may require due report of the refund so made. Whenever any carrier shall file with the public utilities commission, and also with the interstate commerce commission, a tariff containing both intrastate rates and interstate rates on the same commodity, and prior to the effective date thereof the interstate rates are suspended by the interstate commerce commission; then the public utilities commission shall have power to suspend, at any time within ten days after the date of the suspension order issued by the interstate commerce commission, the proposed intrastate rates, and such suspension may be kept in full force and effect so long as the interstate rates shall continue under suspension with a reasonable time thereafter for preparation of and issue of decision. The public utilities commission may, with the consent of the governor and council, hold joint hearing with the interstate commerce commission with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of the public utilities commission and the interstate commerce commission, in accord with the provisions of the act to regulate commerce and applicable amendments.

Sec. 36. Comprehensive classification of service. R. S. c. 55, § 31. The commission shall provide for a comprehensive classification of service for each public utility and such classification may take into account the quantity used, the time when used, the purpose for which used, and any other reasonable consideration. Each public utility is required to conform its schedules of rates, tolls, and charges to such classification.

Regulation and Control.

Sec. 37. Utilities must not give special privileges. R. S. c. 55 § 32. It shall be unlawful for any public utility to demand, charge, collect, or receive from any person, firm, or corporation less compensation for any service rendered or to be rendered by such public utility in consideration of the furnishing by such person, firm, or corporation of any part of the facilities incident thereto; provided that nothing herein shall be construed as prohibiting any public utility from renting any facilities incident to the production, transmission, delivery, or furnishing of heat, light, water, or power or the conveyance of telephone or telegraph messages and paying a reasonable rental therefor, or as requiring any public utility to furnish any part of such appliances which are situated in or upon the premises of any customer or user, except telephone station equipments upon the subscribers' premises, and unless otherwise ordered by the commission, meters and appliances for the measurement of any product or service; and provided further that nothing herein shall affect scheduled classifications of telephone service wherein separate charges are made for facilities and for service or scheduled classifications of rural telephone service wherein a portion of the facilities are regularly furnished by the user of the service.

Sec. 38. Unjust discrimination defined. R. S. c. 55, § 33. If any public utility make or give any undue or unreasonable preference or advantage to any particular person, firm, or corporation or any undue or unreasonable prejudice or

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disadvantage in any respect whatever, such public utility shall be deemed guilty of unjust discrimination which is hereby prohibited and declared unlawful.

*115 Me. 234; 118 Me. 394.

Sec. 39. Unlawful to receive or solicit rebates; exception; penalty. R. S. c. 55, § 34. 1917, c. 290. It shall be unlawful for any person, firm, or corporation knowingly to solicit, accept, or receive any rebate, discount, or discrimination in respect to any service rendered, or to be rendered by any public utility, or for any service in connection therewith whereby any such service shall in any manner, or by any device whatsoever, be rendered free or at a rate less than named in the schedules in force as provided herein or whereby any service or advantage is received other than is herein specified; provided that this chapter shall not prohibit such free or reduced rates by public utilities as is defined and provided for in the acts of Congress entitled, "An Act to Regulate Commerce" and acts amendatory thereof, nor free or reduced transportation to the officers of leased lines or to police officers or firemen in uniform or of municipal fire apparatus, call men of fire departments wearing badges, while going to or returning from fires, chiefs, captains, sergeants, lieutenants, and inspectors of police departments, in plain clothes and wearing badges, editors and regular reporters of newspapers, nor free transportation under the provision of section fifty-one of chapter sixty-two; nor shall it be construed to prohibit any public utility from granting service at free or reduced rates for charitable or benevolent purposes, nor to prohibit any public utility from supplying water and service free or at reduced or special rates to any person, firm, or corporation for fire protection purposes through or by means of any apparatus or appliances furnished, installed, or maintained by such person, firm, or corporation, provided the same be approved by the commission; nor shall it be unlawful for any public utility to make special rates to its employees or in case of emergency service, nor shall the furnishing by any public utility of any product or service at the rates and upon terms and conditions provided for in any contract in existence January first, nineteen hundred thirteen be construed as constituting a discrimination or undue or unreasonable preference, or advantage within the meaning specified; provided however, that when any such contract or contracts are or become terminable by notice of such utility the commission shall have power in its discretion to direct by order that such contract or contracts shall be terminated by such utility as and when directed by such order; and provided, further, that it shall be lawful for any public utility to make a contract for a definite term subject to the approval of the commission, for its product or service, but such published rates shall not be changed during the term of the contract without the consent of the commission.

See § 82; *115 Me. 234; 118 Me. 376, 394; 125 Me. 450.

Investigation of Accidents.

Sec. 40. Commission to investigate accidents; reports of accidents to be filed under rules of commission. R. S. c. 55, § 35. In the event of an accident resulting in the loss of human life occurring upon the premises of any public utility, or directly or indirectly arising from or connected with its maintenance or operation, the commission shall cause an investigation thereof to be made forthwith, and in the event of any such accident resulting in personal injury or damage to property the commission may make such investigation if in its judgment the public interest requires it, which investigation shall be held in the locality of the accident, unless for the greater convenience of those concerned it shall order such investigation to be held at some other place; such investigation may adjourn from place to place as may be found necessary and convenient. The commission shall

seasonably notify the public utility of the time and place of the investigation, and such public utility may then be heard; and the commission shall have power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable. Every public utility is hereby required to file with the commission under such rules and regulations as the commission may prescribe, reports of accidents so occurring, in the manner and form designated by the commission; provided, however, that in case of accidents resulting in loss of human life, such report shall be made immediately by telephone or telegraph followed by a detailed written report; provided that neither the order nor recommendation of the commission nor any accident report filed with the commission shall be admitted as evidence in any action for damages based on or arising out of the loss of life or injury to person or property in this section referred to.

Physical Valuation.

Sec. 41. Commission to ascertain value of property of any public utility. R. S. c. 55, § 36. The commission shall fix a reasonable value upon all the property of any public utility used or required to be used in its service to the public within the state whenever it deems a valuation thereof to be necessary for the fixing of fair and reasonable rates, tolls, and charges; and in making such valuation they may avail themselves of any reports, records, or other information available to them in the office of any state officer or board.

118 Me. 376.

Approval of Stocks, Bonds, and Notes.

Sec. 42. Authorization of issue of stocks, bonds, and notes by public utilities. R. S. c. 55, § 37. 1919, c. 128. 1925, cc. 76, 133. 1927, c. 82. Any public utility now organized and existing or hereafter incorporated under and by virtue of the laws of the state of Maine and doing business in the state may issue stocks, bonds which may be secured by mortgages on its property, franchises, or otherwise, notes or other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, when necessary for the acquisition of property to be used for the purpose of carrying out its corporate powers, the construction, completion, extension, or improvement of its facilities, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, or to reimburse its treasury for moneys used for the acquisition of property, the construction, completion, extension, or improvement of its facilities, or for the discharge or lawful refunding of its obligations, and which actually were expended from income or from other moneys in the treasury of the corporation not secured by, or obtained from the issue of stocks, bonds, notes, or other evidences of indebtedness of such corporation, or for such other purposes as may be authorized by law; provided and not otherwise, that upon written application, setting forth such information as the commission may require, there shall have been secured from the commission an order authorizing such issue and the amount thereof and stating that in the opinion of the commission the sum of the capital to be secured by the issue of said stocks, bonds, notes, or other evidences of indebtedness is required in good faith for purposes enumerated in this section; but the provisions of this chapter shall not apply to any stocks or bonds or other evidences of indebtedness heretofore lawfully authorized and issued; provided, however, that the commission may at the request of any public utility approve the issue of any stocks or bonds heretofore authorized but not issued. For the purpose of enabling the commission to determine whether it shall issue such an

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order, the commission shall make such inquiries for investigation, hold such hearings and examine such witnesses, books, papers, documents, or contracts as it may deem of importance in enabling it to reach a determination. No order of the commission authorizing the issue of any stocks, bonds, notes, or other evidences of indebtedness shall limit or restrict the powers of the commission in determining and fixing any rate, fare, toll, charge, classification, schedule, or joint rate as provided in this chapter; provided, however, that no public utility shall be required to apply to the commission for authority to issue stocks, bonds, notes, or other evidences of indebtedness for the acquisition of property, for the purposes of carrying out its corporate powers, the construction, completion, extension, or improvement of its facilities, or the improvement or maintenance of its service outside the state, and this proviso shall apply also to the following section.

Without in any way restricting the general language hereof, this section shall be construed to authorize any municipal or quasi-municipal corporation included within this chapter to issue, upon vote of its trustees or similar governing board, bonds, notes, or other evidences of indebtedness for the purposes herein specified and subject to the approval of the commission as herein provided. The trustees or similar governing boards of any such corporations may issue notes or other evidences of indebtedness payable at periods of less than twelve months after the date thereof when necessary to carry out the purposes of such corporations.

No railroad corporation engaged in interstate commerce shall be required to make application to the commission, or to procure its authority, consent, approval, or order, in respect of any of the matters set forth in this section or in sections forty-three and forty-four of this chapter, while and so long as such corporation is required by federal law to make application to and procure authority from the interstate commerce commission as a condition precedent to such proposed action, but nothing herein contained shall exempt any such corporation from filing with the secretary of state due notice of increases in its capital stock or from the payment of any fees required by statute.

*126 Me. 141.

Sec. 43. Conditions under which public utility may issue stocks, bonds, and notes. R. S. c. 55, § 38. No public utility shall issue any stocks, bonds, notes, or other evidences of indebtedness unless payable within one year from date thereof, for money, property, or services in payment for the same, either directly or indirectly, until there shall have been recorded upon the books of such public utility the order of the commission as herein provided; and no indebtedness shall in whole or in part, directly or indirectly, be refunded by any issue of stocks or bonds or by any other evidence of indebtedness running for more than twelve months, without the consent of the commission.

Sec. 44. No increase or decrease of capital stock without consent of commission. R. S. c. 55, § 39. 1919, c. 115. 1927, c. 77. No public utility shall decrease its capital stock or declare any stock, bond, or scrip dividend or divide the proceeds of the sale of its own or any stock, bonds, or scrip among stockholders without the consent of the commission. Any public utility organized under special act of the legislature or under general laws of the state may increase its capital stock upon approval of the commission. The public utility voting to increase its capital stock shall, within fifteen days after such action, file notice of the proposed increase with the commission. If such increase is approved, upon payment of the fees prescribed by section forty-one of chapter fifty-five, the commission shall thereupon issue its certificate of approval to the company so increasing its capital stock and shall also cause to be filed a certificate in the office of the secretary of state certifying to such increase.

Authorization of Leases, Consolidations, and Mortgages.

Sec. 45. Public utilities not to sell, lease, or mortgage without authority of commission, nor acquire stock of other public utilities. R. S. c. 55, § 40. 1919, c. 65. Any public utility may henceforth sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of its duties to the public, or any franchise or permit, or any right thereunder, or by any means whatsoever, direct or indirect, merge or consolidate its property, franchises, or permits, or any part thereof, with any other public utility, when, and not otherwise, it shall have first secured from the commission an order authorizing it so to do. Every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation made other than in accordance with the order of the commission authorizing the same shall be void. The sale, lease, assignment, mortgage, or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit or to waive any forfeiture. Nothing in this section contained shall be construed to prevent the sale, lease, or other disposition by any public utility of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such public utility shall be conclusively presumed to have been of property which is not necessary or useful in the performance of its duties to the public, as to any purchaser of such property in good faith for value. Nothing in this section shall apply to property, franchises, permits, or rights of any utility owned and operated exclusively outside this state. No public utility shall hereafter purchase or acquire, take, or hold any part of the capital stock of any other public utility organized or existing under or by virtue of the laws of this state without having been first authorized to do so by the commission. Every assignment, transfer, contract, or agreement for assignment or transfer of any stock by or through any person or corporation to any corporation or otherwise in violation of any of the provisions of this section shall be void and of no effect; and no such transfer shall be made on the books of any public utility. Nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired or to prevent the acquiring of additional stock by a public utility which now owns a majority of the stock of such other utility.

Physical Connections.

Sec. 46. Commission may order physical connection of telephone and telegraph lines, and joint rates. R. S. c. 55, § 41. Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that a physical connection can reasonably be made between the lines of two or more telephone companies or two or more telegraph companies whose lines can be made to form a continuous line of communication, by the construction and maintenance of suitable connections, for the transfer of messages or conversations, and that public convenience and necessity will be subserved thereby, or shall find that two or more telegraph or telephone companies have failed to establish joint rates, tolls, or charges for service by or over their said lines, and that joint rates, tolls, or charges ought to be established, the commission may, by its order, require that such connection be made, except where the purpose of such connection is primarily to secure the transmission of local messages or conversations between points within the same city or town, and that conversations be

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transmitted and messages transferred over such connection under such rules and regulations as the commission may establish, and prescribe through lines and joint rates, tolls, and charges to be made, and to be used, observed, and enforced in the future. If such telephone or telegraph companies do not agree upon the division between them of the cost of such physical connection or connections or the division of the joint rates, tolls, or charges established by the commission over such through lines, the commission shall have authority, after further hearing, to establish such division by supplemental order.

Sec. 47. Commission may require physical connection between electric and steam railroads. 1917, c. 48. Whenever it is practicable and the same may be accomplished without endangering the equipment, tracks, or appliances of either party, and whenever and wherever public convenience and interest require the same, the public utilities commission may, upon application and after reasonable notice and hearing, require the construction of physical connection between the tracks of any steam railroad company and electric railroad company; the expense of constructing such physical connection may be apportioned by the commission in such manner as it may deem equitable, if the parties to any such petition are themselves unable to agree as to the distribution of the cost of such construction. Said commission may, upon application and reasonable notice and hearing, require any such steam railroad company to permit any electric railroad company to haul, by means of such physical connection, loaded freight cars containing what is called "carload lots" from the tracks of such steam railroad company to points along the line of said electric railroad company for unloading by the owners thereof the contents of such cars and to haul empty freight cars from the tracks of such steam railroad company onto the tracks of such electric railroad company to be loaded for shipment, and such steam railroad company shall accept each such loaded car and transport the same over its lines in accordance with the proper and lawful billing of the shipper of the contents of any such car. Provided that nothing in this chapter shall be construed to require through billing of freight between steam railroad companies and electric railroad companies; nor as requiring or authorizing said commission to require any electric railroad to engage in interstate commerce.

Sec. 48. Cars to be hauled over each other's tracks; commission to establish regulations when corporations are unable to agree. 1917, c. 48. Whenever a physical connection has been made between the tracks of a steam railroad company and an electric railroad company, either voluntarily or by order of the public utilities commission, as provided in the preceding section, such steam railroad company or electric railroad company shall at reasonable times, for reasonable compensation, and under reasonable rules and conditions, draw over their respective tracks the merchandise and cars of the steam railroad company or electric railroad company as the case may be with which such physical connection is so established; provided such cars are of proper gauge, are in good running order, properly equipped and loaded, and otherwise safe for transportation; provided further, if the corporations cannot agree upon the times at which, or the rules and conditions under which, cars shall be drawn, or the compensation to be paid, the public utilities commission shall upon petition of either party and notice to the other and after hearing the parties interested, determine the rate of compensation and fix such rules, conditions, and periods, having reference to the convenience and interests of the corporations and of the public to be accommodated thereby. Any agreement entered into between any two or more such corporations under this section, or any order of the public utilities commission hereunder, shall at all times be subject to annulment, alteration or modification by said commission after notice and hearing.

Sec. 49. Auxiliary service, only, intended; steam railroad car to be returned to junction from which received. 1917, c. 48. The duties imposed upon carriers and the authority conferred upon the public utilities commission by sections forty-seven to forty-nine shall extend only to an auxiliary service by electric railroads, and said commission shall not be authorized to require any physical connection or service herein provided for in any case where there are existing steam railroad facilities which can be with reasonable convenience used by the persons who desire the above named electric railroad service. Whenever any steam railroad freight car is hauled onto the rails of any electric railroad company, such car shall be returned to the steam railroad at the same junction point where taken without other use than that for which such car was taken. It shall be the duty of said commission in making any order for physical connection and the service herein provided for to reasonably protect each steam railroad company from "short hauling" itself. Nothing herein contained shall be construed as requiring any common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

Sec. 50. Railroad not to be required to short haul itself. 1917, c. 36. In establishing any such through route the commission shall not require any company, without its consent, to embrace in any such route substantially less than the entire length of the railroad owned, leased, operated, or controlled by it, or operated in conjunction and under a common management therewith, which lies between the places to be served by such through route.

Nothing herein contained shall be construed to require, or as authorizing the commission to require, any steam railroad to "short haul" itself or to give the use of its tracks or of its terminal facilities to another carrier engaged in a like or similar business.

Sec. 51. Commission may order joint use of equipment by public utilities. R. S. c. 55, § 42. Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility affected, shall find that public convenience and necessity require the use by one public utility of the conduits, subways, tracks, wires, poles, pipes, or other equipment, or any part thereof, on, over or under any street or highway, and belonging to another public utility, and that such use will not result in irreparable injury to the owner or other users of such conduits, subways, tracks, wires, poles, pipes, or other equipment, or in any substantial detriment to the service, and that such public utilities have failed to agree upon such use or the terms and conditions or compensation for the same, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use be directed, the public utility to whom the use is permitted shall be liable to the owner or other users, of such conduits, subways, tracks, wires, poles, pipes, or other equipment for such damage as may result therefrom to the property of such owner or other users thereof.

Procedure.

Sec. 52. Complaints against public utilities. R. S. c. 55, § 43. Upon written complaint made against any public utility by ten persons, firms, corporations, or associations aggrieved, that any of the rates, tolls, charges, or schedules or any joint rate or rates of any public utility are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice, or act of said public utility is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, being satisfied that the petitioners are responsible and that a hearing is

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expedient, shall proceed with or without notice, to make an investigation thereof. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practices, or acts complained of shall be entered by the commission without a formal public hearing.

^{118 Me. 393; 125 Me. 144; 126 Me. 24.}

Sec. 53. Notice of complaint to public utility. R. S. c. 55, § 44. The commission immediately upon the filing of such complaint shall notify in writing the public utility complained of that a complaint has been made, and of the nature thereof; and if at the expiration of ten days therefrom such public utility shall not have removed the cause of complaint to the satisfaction of the commission, said commission shall proceed to set a time and place for a hearing as hereinafter provided.

Sec. 54. Notice to public utility of public hearing. R. S. c. 55, § 45. The commission shall give the public utility and the complainants at least ten days' notice of the time and place when and where such formal public hearing will be held. Both the public utility and the complainants shall be entitled to be heard and have process to enforce the attendance of witnesses as in civil actions in the supreme judicial court.

Sec. 55. Decision by commission. R. S. c. 55, § 46. If upon such formal public hearing the rates, tolls, charges, schedules, or joint rates shall be found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of the provisions of this chapter, the commission shall have power to fix and order substituted therefor such rate or rates, tolls, charges, or schedules as shall be just or reasonable. If upon such public hearing it shall be found that any regulation, measurement, practice, act, or service complained of as unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter or if it be found that any service is inadequate or that any reasonable service cannot be obtained, the commission shall have power to establish and substitute therefor such other regulations, measurements, practice, service, or acts, and to make such order respecting and such changes in such regulations, measurements, practice, service, and acts as shall be just and reasonable.

^{118 Me. 376.}

Sec. 56. Public utility to conform to decision; copies to be furnished by clerk. R. S. c. 55, § 47. 1917, c. 93. 1927, c. 64. Every public utility to which such order applies shall make such changes in its schedules on file as may be necessary to make the same conform to said order; and no change thereafter shall be made by any public utility in any such rates, tolls, or charges or in any joint rate or rates within one year after the date of said order without the approval of the commission. At the expiration of one year from the date of said order, and thereafter, no change shall be made by any public utility in any such rates, tolls, or charges or in any joint rate or rates except in accordance with section twenty-nine. Copies of all orders of the commission, certified by the clerk, shall be delivered to the public utility affected thereby and the same shall take effect within such time thereafter as the commission shall prescribe. The supreme judicial court shall have full jurisdiction at law and in equity, upon application of the commission or of the attorney general, to enforce all orders of the commission and the performance by public utilities of all duties imposed by law upon them, including the appointment of receivers, agents, and special masters to carry its orders and the orders of said commission into effect and clothing them with adequate authority therefor.

^{*126 Me. 27. See c. 90, § 6.}

Sec. 57. Commission may investigate on its own motion; notice to public

utility. **R. S. c. 55, § 48.** Whenever the commission believes that any rate or charge is unjust or unreasonable or that any service is inadequate or cannot be obtained or that an investigation of any matter relating to any public utility should for any reason be made, it may on its own motion, summarily investigate the same with or without notice. If after making such summary investigation the commission becomes satisfied that sufficient grounds exist to warrant a formal public hearing being ordered as to matters so investigated, it shall furnish such public utility interested a written statement giving notice of the matter under investigation. Ten days after such notice has been given the commission may proceed to set a time and place for a formal public hearing as hereinbefore provided.

118 Me. 393.

Sec. 58. Notice of public hearing. R. S. c. 55, § 49. Notice of the time and place of such hearing shall be given to the public utility and to such interested persons as the commission shall deem proper as provided in section fifty-four; and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the commission relative thereto; and like orders may be made in reference thereto as if such investigation had been made on complaint.

Sec. 59. Utility may make complaint; reparation or adjustment of excessive rate authorized. R. S. c. 55, § 50. 1917, c. 131. 1923, c. 31. The Public Utilities Commission may institute or any public utility may make complaint as to any matter affecting its own product, service, or charges, with like effect as though made by any ten persons, firms, corporations, or associations. And the commission may authorize reparation or adjustment where the utility admits that a rate charged was excessive or unreasonable, or collected through error, and it appears that the utility has subsequently within ninety days, after the rendering of any service within the state of Maine, filed the rate to which the reduction is authorized in place of the rate which is admitted to be excessive or unreasonable; provided, however, that such new rate so published shall continue in force one year unless sooner changed by the order or with the consent of the commission. Within two years after the rendering of any service within the state of Maine by any public utility, for which service a rate, toll, or charge is made by such utility, any person, firm, corporation, or association aggrieved may complain to the commission that the rate, toll, or charge exacted for such service is unjustly discriminatory against him, or it, either because it is higher than that charged by the same utility for the same service, or service of similar value and cost, rendered to other users or consumers thereof, or because the utility has failed, without reasonable cause, to make a more favorable rate, toll, or charge, published by it for the same or a similar service, as aforesaid, applicable to the said user or consumer, or to the class of users or consumers to which he or it belongs, or at the place at which said service is rendered. Within six months after an order has been made authorizing reparation or adjustment under the second sentence of this section, any person, firm, corporation, or association aggrieved may complain to the commission that he or it is entitled to reparation from the same utility by reason of the payment of the same rates which said utility admits are excessive or unreasonable, or collected through error; provided, said utility might lawfully have been permitted to make such reparation on its own petition, and, provided further, such person, firm, corporation, or association shall have made written request for such utility to file its own petition for authority to make such reparation or adjustment not less than thirty days before filing the aforesaid complaint. Upon receipt of either of the

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aforesaid complaints the commission shall make such investigation as it deems necessary to determine whether a hearing ought to be given thereon. It may order a hearing upon such notice to said utility as it deems just and reasonable. If, upon such hearing, the commission shall decide that the complainant has been injured in either of the ways herein mentioned, it shall find what sum said utility ought to refund or repay to said complainant on account thereof, which said sum said utility shall have the right to refund. If it shall refuse or neglect to make such refund within thirty days, the party aggrieved thereby may maintain an action in the courts of this state to recover said amount, and in the trial thereof the findings of this commission shall be prima facie evidence of the truth of the facts found by it, and no utility shall be permitted to avail itself of the defense of such action that the service involved was in fact made on the published tariff rate in force at the time it was rendered; but no utility making a refund upon the order of the commission or pursuant to judgment of the court as herein provided, shall be liable for any penalty or forfeiture, or subject to any prosecution under the laws of this state on account of making such refund.

118 Me. 393.

Sec. 60. Each commissioner may administer oaths, and issue necessary orders and processes. R. S. c. 55, § 51. 1919, c. 78. Each of the commissioners for the purposes mentioned in this chapter, may administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, documents, and testimony, punish by fine and imprisonment for contempt, and issue all processes necessary to the performance of the duties of the commission. Said public utilities commission shall have power to appoint, to serve during its pleasure, an examiner, who, being first duly sworn, shall have authority to administer oaths, examine witnesses, issue subpoenas, require the production of books, accounts, papers, documents, and testimony, and receive evidence in any matter under the jurisdiction of the commission, and shall perform such other duties as may be assigned to him. Evidence so taken and received shall have the same force and effect as though taken and received by said commission, and shall authorize action by said commission as though by it taken and received. When objection is made to the admissibility of evidence the examiner shall note the same with the reasons therefor and incorporate such notation and reasons in his report of the evidence according to the practice in taking depositions. The commission shall disregard or consider the evidence so objected to according to the rules governing the taking of evidence before the commission, and shall report its rulings thereon in its decision of the case. The commission shall fix the salary of said examiner.

Sec. 61. Witnesses and fees. R. S. c. 55, § 52. Each witness who shall appear before the commission by its order, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme judicial court, which shall be audited and paid by the state in the same manner as other state expenses are audited and paid upon the presentation of proper vouchers approved by the commission. Provided, however, that in all investigations under section forty, where the public utility is a common carrier of persons, it shall transport all witnesses over its lines free of charge under such regulations as the commission may establish; and provided, further, that there shall be deducted from the mileage allowed witnesses under this section who travel, or may travel, to and from the place of hearing on any pass or other form of free transportation, a sum equal to the fare to and from said place at the lowest published rates for single trip or return trip tickets.

Sec. 62. Depositions. R. S. c. 55, § 53. The commission or any party may, in any formal public hearing, use the deposition of witnesses residing within or outside the state; such depositions to be taken in the manner prescribed by law for taking depositions in civil actions in the supreme judicial court.

Sec. 63. Record of proceedings. R. S. c. 55, § 54. A full and complete record shall be kept of all proceedings had before the commission and of any investigation or formal public hearing and all testimony shall be taken by a stenographer to be appointed by the commission.

Sec. 64. Question of law may be raised on exceptions to rulings; proceedings upon agreement in supreme judicial court; decision certified to clerk of commission. R. S. c. 55, § 55. 1917, c. 28. Questions of law may be raised by alleging exceptions to the ruling of the commission on an agreed statement of facts, or on facts found by the commission, and such exceptions shall be allowed by the chairman of the commission and certified by the clerk thereof to the chief justice of the supreme judicial court with the arguments of counsel, if any have been received by him, within sixty days after such exceptions have been allowed. The party raising such questions shall, within thirty days thereafter deliver a copy of his argument to the opposing counsel, who shall within twenty days after receiving the same furnish a copy of his answer to the counsel for the moving party, who shall in turn make reply thereto within ten days thereafter, and deliver said arguments to the clerk of the commission to be forwarded with the exceptions to the chief justice; provided, however, that said commission may, and shall unless it certifies that the public interest does not require it, prepare and file with said arguments and exceptions a brief or argument in support of the ruling excepted to, and for that purpose may withhold said arguments and exceptions ten days after they have been delivered to the clerk as aforesaid; and provided, further, that in all complaints and investigations instituted or prosecuted by the commission, on its own motion it, as well as any persons made parties of record in support of the side in whose favor said ruling is made, shall be deemed an opposing party for the aforesaid purposes. And such questions of law shall be considered and decided by the law court as soon as may be; or if the parties so agree of record, such questions shall be certified to the next term of the law court to be entered on the docket thereof and argued and determined according to the rules of procedure in said court. The result in either case shall be certified by the clerk of the law court to the clerk of the commission, the prevailing party to recover costs.

118 Me. 382; 121 Me. 422; 123 Me. 383, 389; 125 Me. 141; 126 Me. 141.

Sec. 65. Exceptions do not stay order of the commission. R. S. c. 55, § 56. While questions of law are pending on exceptions to a ruling of the commission, as provided in the preceding section, no injunction shall issue suspending or staying any order of the commission and said exceptions shall not excuse any person or corporation from complying with and obeying any order or decision, or any requirement of any order or decision of the commission or operate in any manner to stay or postpone the enforcement thereof, except in such cases and upon such terms as the commission may order and direct.

Sec. 66. Commission may alter or amend orders. R. S. c. 55, § 57. 1917, c. 34. The commission may at any time upon notice to the public utility and after opportunity to be heard as provided in section fifty-four, rescind, alter, or amend any order fixing any rate or rates, tolls, charges, or schedules or any other order made by the commission, or any decision, order or decree of the railroad commissioners, and certified copies of the same shall be served and take effect as herein provided for original orders.

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Sec. 67. Burden of proof. R. S. c. 55, § 58. In all trials, actions, and proceedings arising under the provisions of this chapter or growing out of the exercise of the authority and powers granted herein to the commission, the burden of proof shall be upon the party adverse to the commission or seeking to set aside any determination, requirement, direction, or order of said commission complained of as unreasonable, unjust, or unlawful as the case may be. And in all original proceedings before said commission where an increase in rates, tolls, charges, or schedules or joint rate or rates is complained of, the burden of proof shall be upon the public utility to show that such increase is just and reasonable.

Sec. 68. Practice and rules of evidence; service of process. R. S. c. 55, § 59. In all actions and proceedings arising under this chapter all processes shall be served and the practice and rules of evidence shall be the same as in civil actions in the supreme judicial court except as otherwise herein provided. Every sheriff or other officer empowered to execute civil processes may execute any process issued under the provisions of this chapter and shall receive such compensation therefor as may be prescribed by law for similar service.

125 Me. 141.

Sec. 69. Witness not excused from testifying because of incrimination; immunity from prosecution. R. S. c. 55, § 60. No person shall be excused from testifying or from producing books, accounts, and papers in any proceeding based on or growing out of the provisions of this chapter on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or to subject him to a penalty or forfeiture; and no person having so testified shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified or produced any documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for perjury.

Sec. 70. Certified copies of all orders furnished. R. S. c. 55, § 61. Upon application of any person and upon payment therefor as the commission may by rule provide, the commission shall furnish certified copies under the seal of the commission of any order made by it, which shall be evidence of the facts stated therein.

Sec. 71. Commission may temporarily suspend, alter, or amend orders. R. S. c. 55, § 62. Whenever the commission shall deem it necessary in order to prevent injury to the business of any public utility or to the interest of the people, or in case of any emergency which the commission may adjudge to exist, it shall have power, temporarily, to alter, amend or, with the consent of the public utility concerned, suspend any existing rates, schedules or orders relating to or affecting any public utility. Such rates so made by the commission shall apply to one or more of the public utilities in this state or to any portion thereof as may be directed by the commission, and shall take effect at such time and remain in force for such length of time as may be prescribed by the commission.

Sec. 72. Utility to first apply to commission for rights; application to legislature to allege a denial by the commission. R. S. c. 55, § 71. No public utility shall apply to the legislature to grant it any right, privilege, or immunity which the public utility commission has power to grant to said utility until said utility shall first have exhausted its rights in that behalf before said commission; and in making such application to the legislature said utility shall make a statement in writing, which shall accompany the proposed legislation, that it has applied

to said commission for the right, privilege, or immunity requested and that said commission has denied its application.

Sec. 73. Substantial compliance with law, sufficient; no waiver of right of action. R. S. c. 55, § 70. A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all rules, orders, acts, and regulations of the commission and they shall not be declared inoperative, illegal, or void for any omission of a technical or immaterial nature in respect thereto. This chapter shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty, or forfeiture which may have arisen or which may hereafter arise under any law of this state.

Penalties.

Sec. 74. Contempt punished. R. S. c. 55, § 63. Every public utility, corporation, or person failing to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement, or any part or portion thereof, of the commission or of any commissioner shall be in contempt of the commission and shall be punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section shall not be a bar to or affect any other remedy prescribed in this chapter, but shall be cumulative and in addition to such other remedy or remedies.

Sec. 75. Utility liable in damages in civil action. R. S. c. 55, § 64. If any public utility shall do or cause to be done or permit to be done any matter, act, or thing in this chapter prohibited or declared to be unlawful, or shall omit to do any act, matter, or thing required to be done by it, such public utility shall be liable in damages to the person, association, or corporation injured thereby; provided that any recovery as in this section provided, shall in no manner affect a recovery by the state of the penalty prescribed for such violation.

Sec. 76. Failure or refusal to obey orders, or to comply with the law; penalty. R. S. c. 55, § 65. Any officer, agent, or employee of any public utility who shall wilfully fail or refuse to fill out and return any blanks required by this chapter, or shall wilfully fail or refuse to answer any question therein propounded, or shall knowingly or wilfully give a false answer to any such question, or shall wilfully evade the answer to any question where the fact inquired of is within his knowledge, or who shall upon proper demand, wilfully fail or refuse to exhibit to the commission or to any commissioner or to any person authorized to examine the same, any book, paper, account, record, or memorandum of such public utility which is in his possession or under his control, or who shall wilfully fail properly to use and keep his system of accounting or any part thereof as prescribed by the commission or who shall wilfully refuse to do any act or thing in connection with such system of accounting when and as directed by the commission, shall upon conviction thereof be punished by a fine not exceeding one thousand dollars for each offense. And a penalty of not more than one thousand dollars shall be recovered from the public utility for each such offense when such officer, agent, or employee acted in obedience to the direction, instruction, or request of such public utility or any owner or general officer thereof.

Sec. 77. Punishment when no penalty has been provided. R. S. c. 55, § 66. If any public utility shall wilfully violate any provision of this chapter or shall do any act herein prohibited or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided or shall fail or refuse to obey any lawful requirement or order made by the commission, for any such violation,

failure, or refusal such public utility shall forfeit and pay into the state treasury not more than one thousand dollars for each offense to be recovered in an action on the case in the name of the state. In construing and enforcing the provisions of this section, the act, omission, or failure of any officer, agent, or other person acting for or employed by any public utility acting within the scope of his employment shall in every case be deemed to be the act, omission, or failure of such public utility.

Sec. 78. Each day's violation of order, a distinct offense. R. S. c. 55, § 67. Every day during which any public utility or any officer, agent, or employee thereof shall wilfully fail to observe or comply with any order of the commission or to perform any order of the commission or to perform any duty enjoined by this chapter shall constitute a separate and distinct offense.

Sec. 79. Penalty for illegal issue, or misappropriation of proceeds of sale of stocks, bonds, and notes. R. S. c. 55, § 68. Any director or officer of any public utility who shall directly or indirectly issue or cause to be issued any stocks, bonds, notes, or other evidences of indebtedness contrary to the provisions of this chapter, or who shall apply the proceeds from the sale thereof to any other purpose than that specified in the order of the commission, as herein provided, shall, upon conviction thereof, be imprisoned in the state prison for not less than one year nor more than ten years.

Sec. 80. Penalty for false statement as to issue of stocks, bonds, and notes. R. S. c. 55, § 69. Any officer, owner, or agent of any public utility who shall knowingly or wilfully make any false statement to secure the issue of any stock, bond, or other evidence of indebtedness, or who shall by false statement knowingly or wilfully made procure of the commission the making of the order herein provided, or issue with knowledge of such fraud, negotiate or cause to be negotiated any such stock, bond, note, or other evidence of indebtedness in violation of this chapter, shall, upon conviction thereof, be fined not less than five hundred dollars or be imprisoned in the state prison for not less than one year nor more than ten years or both.

Sec. 81. Penalty for violating provision relating to headlights on electric cars. 1921, c. 150. Whoever, either as owner or operator, fails to comply with any of the provisions of section fifteen of this chapter shall be liable to a fine not exceeding five dollars for each offense.

Sec. 82. Penalty for soliciting or receiving rebates. R. S. c. 55, § 34. 1917, c. 290. Any person, firm, or corporation, violating the provisions of section thirty-nine of this chapter shall be punished by a fine of not more than one thousand dollars for each offense.

Sec. 83. Penalty for violations of § 14. Whoever violates any rule, regulation, or order made under the provisions of section fourteen shall be punished for each offense by a fine of not more than five hundred dollars to the use of the state or by imprisonment for not more than one year or by both such fine and imprisonment.

CHAPTER 62.

The Organization and Construction of Steam Railroads. Crossings and Bridges.

- Sections 1-23 Organization of Railroad Corporations.
 Sections 24-30 Acquisition of Real Estate for Purposes of the Road.
 Sections 31-40 Estimation and Payment of Damages.
 Sections 41-46 Aid by Towns in Construction of Railroads.
 Section 47 Contractors' Laborers Protected.
 Sections 48-62 Inspection and Supervision by Public Utilities Commission.
 Sections 63-78 Crossings Regulated.

Organization of Railroad Corporations.

Sec. 1. Organization of railroad companies. R. S. c. 56, § 1. Any number of persons not less than ten, a majority of whom shall be citizens of 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 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 nearly as may be, and the name of each town and county in the state through which or into which it is to be made; the amount of the capital stock, 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 a mile for a narrower gauge, the number of shares of which said stock shall consist, and the names and places of residence of at least five persons, a majority of whom shall be citizens of the state, who shall act as directors of the proposed company, and manage its affairs until others are chosen in their places. Each subscriber shall sign his name, residence, and the number of shares which he agrees to take in said company.

*110 Me. 285.

Sec. 2. Requirements as to stock before articles are filed. R. S. c. 56, § 2. Said articles of association shall not be filed and recorded in the manner provided in the following section 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, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named therein, that the amount of stock required by this section has been in good faith subscribed, and five per cent paid thereon in cash as aforesaid, and that it is intended in good faith to construct, maintain, and operate the road mentioned in such articles, which affidavit shall be recorded therewith as aforesaid.

Sec. 3. Approval of articles of association; issue of certificates; certificate conclusive as to organization of corporation. R. S. c. 56, § 3. Said directors shall present to the public utilities commission a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The public utilities commission shall, on presentation of such petition appoint a day for a hearing thereon, and the petitioners shall give such

notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. If the commission, after notice and hearing the parties, finds that all the provisions of sections one and two have been complied with, and that public convenience requires the construction of such railroad, said commission shall indorse upon said articles a certificate of such facts and the approval of the commission in writing. The secretary of state shall upon payment of the fees prescribed by section six of chapter fifty-five cause the same with the indorsement thereon, to be recorded, and shall issue a certificate in the following form:

“STATE OF MAINE.

Be it known that, whereas,” (here the names of the subscribers to the articles of association should be inserted) “have associated themselves together with the intention of forming a corporation under the name of” (here insert the name of the corporation) “for the purpose of building and operating a road between” (here insert the description of the road contained in the articles of association) “and have complied with the statutes of the state in such cases made and provided: Now, therefore, I,” (here insert the name of the secretary) “Secretary of the State of Maine, 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 _____, A. D. 19—.” (day, month and year inserted.)

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 thereof. The secretary shall also cause a record of such certificate to be made, and a certified copy of such record may with like effect as the original certificate be given in evidence to prove the existence of such a corporation.

Sec. 4. Meeting for organization. R. S. c. 56, § 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, place, and purpose of such meeting, a copy of which notice shall, seven days at least before the day appointed therefor, be given to each such subscriber, or left at his usual place of business or residence, or deposited in the post-office, post-paid, addressed to him at his usual place of business or residence; and whoever gives such notice, shall make affidavit of his doings, which shall be recorded in the records of the company.

Sec. 5. Increase of capital stock. R. S. c. 56, § 5. If the capital stock of any company formed under the foregoing provisions is found to be insufficient for constructing and equipping its road, such company may increase the same 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 at a meeting thereof, called by the directors for that purpose.

See §§ 19-21.

Sec. 6. Petition for approval of location; proceedings thereon. R. S. c. 56, § 6. Every corporation organized under the foregoing provisions, before commencing the construction of its road, shall present to the public utilities commission a petition for approval of location, defining its courses, distances, and

boundaries accompanied with the map first presented, and with a profile of the line on the relative scales of profile paper in common use, and with a report and estimate prepared by a skilful engineer from actual survey. The commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. If the public utilities commission, after hearing the petition, approves the proposed location, the corporation may proceed with the construction thereof; provided, that they first file with the clerk of the court 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 public utilities commission; but the location so filed shall not vary, except to avoid expense of construction, from the route first presented to said commission, unless said variation is approved by them. And said location, together with any variation made therein, shall be filed within two years from the time when the articles of association are filed in the office of the secretary of state; provided, however, that the public utilities commission, upon written application made to them, may extend the time of filing such variations in their discretion; provided, further, that no railroad shall be made across tide-waters where vessels can navigate, without special permission of the legislature first obtained.

90 Me. 85; 105 Me. 118, 534.

Sec. 7. Building of road to be begun within three years. R. S. c. 56, § 7. If any corporation formed under the foregoing sections does 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 its capital, its corporate existence and power shall cease.

See § 10; c. 1, § 6, ¶ xxix.

Sec. 8. Map and profile of road to be filed with public utilities commission. R. S. c. 56, § 8. Every corporation organized as aforesaid shall, within one year after any part of its road has been constructed and opened for operation, cause a map and profile thereof, and of the land taken or obtained for the use thereof, to be made and filed in the office of the public utilities commission. Every such map shall be drawn on a scale and on paper to be designated by the public utilities commission, and shall be signed by the president and engineer of the corporation.

Sec. 9. Railroad company may change gauge. R. S. c. 56, § 9. Any railroad corporation formed under the foregoing sections, desiring to change the gauge of its road, shall by vote, increase its capital stock to the amount required by section one of this chapter, if the existing capital be not equal to such amount, and shall present to the public utilities commission a written application, subscribed and sworn to by a majority of its directors, setting forth the desire of the petitioners, and that the increased amount of capital stock has been in good faith subscribed by responsible persons, and that five per cent thereof has been paid in, in cash, to the treasurer of such corporation. If such application is approved by the public utilities commission, such corporation shall make and file a new location, as provided by section eight of this chapter.

Sec. 10. Public utilities commission may revive lapsed charter. R. S. c. 56, § 10. The public utilities commission may revive the corporate existence and power of any railroad corporation, organized under the foregoing sections, which may have ceased by failure of the corporation to file its location, or to begin the construction of its road within the time limited by law, on application made by

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the directors of said corporation to said commission, in the manner provided in section nine.

Sec. 11. Petition for legislative incorporation, contents. R. S. c. 56, § 11. 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.

Sec. 12. Company may fix number of directors. R. S. c. 56, § 12. Any railroad company may at its annual meeting fix the number of its directors, provided, that in the call for said meeting notice is given of an intention to act upon said subject.

Sec. 13. Any stockholder at any meeting may call for stock vote. R. S. c. 56, § 13. Any stockholder, or representative of any stockholder in any railroad company may call for a stock vote thereof at any meeting of its stockholders, on any question legally before it, anything in the charter or by-laws of such company to the contrary notwithstanding.

Sec. 14. Railroad corporations may extend roads. R. S. c. 56, § 14. 1917, c. 96. Any railroad corporation of this state may locate, construct, operate, and maintain extensions and branches anywhere in this state, of the lines of railroad now or hereafter owned, leased, constructed, or operated by it; provided, however, that no railroad corporation shall hereafter begin the construction of any such extension or branch without having first obtained from the public utilities commission, upon written application and after public hearing, an order authorizing and approving the location of any such extension or branch and a certificate stating that in the opinion of the commission public convenience and necessity require such construction.

Sec. 15. Use of electricity. R. S. c. 56, § 15. Any railroad corporation of this state may operate its road by electricity.

Sec. 16. Railroad corporations may aid branch or connecting road. R. S. c. 56, § 16. Any railroad corporation, wholly organized under the laws of this state, at any time when it has paid dividends for the preceding three years, may, by vote of its directors, authorized or confirmed by a two-thirds vote of its stockholders, at a meeting notified for the purposes, with the consent of the public utilities commission, aid in the construction or equipment of a branch of its railroad, or in the construction or equipment of a connecting railroad, and may own and hold the securities of such branch or of such connecting railroad.

101 Me. 358.

Sec. 17. May hold shares in another road. R. S. c. 56, § 17. A railroad corporation which has a lease of, or which operates the railroad of another railroad corporation, may purchase and hold shares of the capital stock of such corporation, subject to the approval of the public utilities commission in accordance with the procedure set forth in chapter sixty-one.

Sec. 18. May increase holdings. R. S. c. 56, § 18. A railroad corporation, which owns a majority of the capital stock of another railroad corporation, may purchase and hold additional shares of the capital stock of such corporation.

Sec. 19. Railroad corporation may increase its capital stock beyond amount first authorized. R. S. c. 56, § 19. A railroad corporation for the purpose of building a branch railroad track which it is or may be authorized to build, or of building a branch or extension which it is or may be authorized to build, or of aiding in the construction of another railroad pursuant to law, or of building stations, or of abolishing grade crossings, or of making permanent improvements, or of paying its floating debt, or of paying its funded debt, or for the payment of money borrowed for any lawful purpose, or for the purchase of

shares of the capital stock of any railroad corporation whose railroad is leased to or operated by it, or for the purchase of shares of the capital stock of any railroad corporation of which capital stock it owns a majority, or for improving the alignment of its road, or for acquiring land for and laying new tracks, or for other necessary and lawful purposes, not named in section five, from time to time, with the approval of the public utilities commission as hereinafter provided, may increase its capital stock beyond the amount fixed by law by issuing common or preferred stock, provided such increase shall first be authorized by vote of a majority of stock present or represented, at a legal meeting of the corporation duly called for that purpose. If preferred stock is issued, the character of such stock including its voting power, if any, and the rate of interest it shall bear and whether it shall be cumulative or non-cumulative shall be fixed by vote of a majority of stock present or represented at such legal meeting.

See § 5.

Sec. 20. Proceedings before public utilities commission. R. S. c. 56, § 20. 1927, c. 44. Upon petition of the directors of the railroad corporation to the public utilities commission, the amount of such increase after such notice by publication as the commission shall order, and after hearing, shall be determined by said commission, who shall within thirty days after final hearing of said petition, file in the office of the secretary of state a certificate showing the amount of increase authorized and the purposes for which the proceeds of said new stock may be used; and the company shall not apply such increase or the proceeds thereof to any purpose not specified in said certificate, and may be enjoined from so doing by any justice of the supreme judicial court upon application of the board or of any interested party; the provisions of this section shall not apply to any railroad corporation engaged in interstate commerce, while and so long as such corporation is required by federal law to make application to and procure consent from the interstate commerce commission as a condition precedent to any increase in its capital stock.

Sec. 21. When stock is increased to be offered to stockholders proportionately; notice to each stockholder; sale of shares unsubscribed for. R. S. c. 56, § 21. 1927, c. 43. Whenever a railroad corporation which is in actual possession of and operating a railroad increases its capital stock the new shares shall be offered proportionately to its stockholders at such price as shall be approved by them and by the public utilities commission. The directors shall cause written notice of such increase to be given to each stockholder of record upon the books of the company at the date of the vote to increase, stating the amount of the increase, the number of shares or fraction of shares to which, according to the proportionate number of his shares at the date of the vote to increase, he is entitled, the price at which he is entitled to take them, and fixing a time not less than fifteen days after the date of such vote to increase within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before the issue of a certificate therefor; in the absence of charter provisions to the contrary, subscriptions may not be made for fractions of shares, but rights to subscribe for such fractions may be combined to create rights of subscription to full shares. Provided, that when the increase in the capital stock does not exceed four per cent of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders, may sell the same in such manner, under such conditions, at such price and on such terms as the public utilities commission shall approve in an order issued pursuant to

a petition or application filed with it under the requirements of the preceding section. If, after the expiration of the notice above provided for, any shares of such stock remain unsubscribed for by the stockholders, or their assignees, entitled to take them, the directors may sell the same in such manner, under such conditions, at such price and on such terms as the public utilities commission shall approve in an order issued pursuant to a petition or application filed with it under the requirements of the preceding section. Provided, further, that the determination by the public utilities commission, under the provisions of the preceding section as to the amount of such increase, shall be based upon the price at which such stock is to be issued as approved by the stockholders, and the said commission shall refuse to approve any particular issue of stock if, in their opinion, the price approved by the stockholders is so low as to be inconsistent with the public interest, or the said commission may make its approval conditional upon such stock being issued or sold at a price not less than that which the commission shall determine.

Sec. 22. Penalty for issuing stock contrary to the provisions of §§ 19-21. R. S. c. 56, § 22. Any member of the board of directors, or any treasurer or other officer or agent of any railroad company, who knowingly votes to authorize the issue of, or knowingly signs, certifies, or issues, stock authorized by the provisions of the three preceding sections, contrary to such provisions or who knowingly votes to authorize the application of, or knowingly applies the proceeds of such stock contrary to the provisions of said sections, or who knowingly votes to assume or incur, or who knowingly assumes or incurs, in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

Sec. 23. Powers of railroad corporations under existing law not affected. R. S. c. 56, § 23. Nothing contained in the six preceding sections shall be construed as a repeal of any of the powers conferred upon any railroad corporation under any other provision of law.

Real Estate, How and for What Purposes Taken.

Sec. 24. Land may be bought or taken. R. S. c. 56, § 24. 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; through woodland and forest the land so taken shall not exceed six rods in width unless necessary for excavation, embankment or materials, and through all land other than woodland and forest, the land so taken shall not exceed four rods in width unless necessary for excavation, embankment, or materials.

See §§ 26, 28, 29, 31.

*35 Me. 258; 40 Me. 556; 41 Me. 20; 47 Me. 46, 347; 51 Me. 320; 59 Me. 535;
*66 Me. 38, 46; *67 Me. 360; 77 Me. 602; 83 Me. 277; 84 Me. 39; *86 Me. 130;
105 Me. 117, 532.

Sec. 25. Location to be filed and recorded; remedy for defective location; subscriptions, when released by new location; proceedings before county commissioners. R. S. c. 56, § 25. The railroad shall be located within the time and substantially according to the description in its charter; and the location shall be filed with the county commissioners, who shall indorse the time of filing thereon and order said location 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 is liable in 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 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 defense shall be made to any process to enforce payment; if they determine that it has not, the subscription of such applicant is void. The prevailing party recovers costs. Provisions in railroad charters, whenever granted, limiting the time within which such railroad shall be completed, shall not affect the portion thereof completed within such time; and all charters under which railroads have been constructed for a portion of the line authorized thereby are confirmed and made valid as to such portion.

59 Me. 536; 83 Me. 277; 97 Me. 47; 105 Me. 118, 534.

Sec. 26. Railroad corporation may take additional land for improving its road-bed, stations, repair shops, etc. Proceedings before public utilities commission. R. S. c. 56, § 26. 1925, c. 154. Any railroad corporation may also purchase or take and hold, as for public uses, additional land at any time required for improving the alignment or grades of its road, or for double tracking its road, or for protecting the tracks against erosion of adjoining or adjacent land or against the action of the elements, also land for borrow and gravel pits, necessary tracks, side-tracks, spur tracks, stations, coal-sheds, wood-sheds, water-tanks, repair-shops, car, engine, freight, and section houses and section dwelling houses, which the public utilities commission, after hearing, shall find to be reasonably required in the safe, economical and efficient operation of the railroad and in rendering of adequate common carrier service to the public; but if the owner or owners of said land do not consent thereto, or if the parties do not agree as to the necessity therefor, or as to the area to be taken, or if the parties are unable to agree as to the fair value of said land, the corporation may make written application to the public utilities commission requesting its approval of the taking by said railroad corporation for any of the above named public uses, describing the estate and naming the persons interested; the commission shall thereupon appoint a time for the hearing near the premises, and require notice to be given to the persons interested, as they may direct, fourteen days at least before said time; the commission shall then view the premises, hear the parties and determine how much, if any, of such real estate should be taken for the reasonable accommodation of the traffic, the safe operation of the railroad, and the appropriate business of the corporation. If they find that any of it is so necessary, they shall make a certificate containing a definite description thereof and furnish the corporation with a true copy thereof, attested by the clerk of the commission; and when such copy of the certificate is filed with the clerk of courts in the county where the land lies, the land 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 commission shall, in addition to the notice to the tenant for life, give notice by publication to all others interested, in such manner as they deem proper.

*66 Me. 38-46; 84 Me. 39; 85 Me. 67.

Sec. 27. Change in location of railroad. R. S. c. 56, § 27. Any railroad corporation, under the direction of the public utilities commission, may make

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any changes in the location of its road which it deems necessary or expedient, and such changes shall be recorded where the original location was required by law to be recorded.

^{90 Me. 92.}

Sec. 28. May take land necessary for making any change. R. S. c. 56, § 28. Any railroad corporation may purchase, or take and hold, as for public uses, land and materials necessary for making any changes authorized by the preceding section, in the manner authorized by its charter or the general provisions of law, and may cross highways and town ways in accordance with the provisions of law regulating such crossings.

Sec. 29. Limitation of right to enter on or take land. R. S. c. 56, § 29. The land taken shall not 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, meetings-houses, dwelling-houses or public or private burying-grounds.

^{See c. 64, § 24; 47 Me. 443; *66 Me. 40.}

Sec. 30. Authority to build branch tracks. R. S. c. 56, § 30. 1917, c. 76. 1919, c. 53. 1923, c. 64. Any railroad corporation, under the direction of the public utilities commission, may locate, construct, and maintain branch railroad tracks to any railroad station of another corporation or to connect with another railroad or to any mills, mines, quarries, gravel-pits, log landing or yard, warehouses and storehouses, educational institution, or manufacturing establishments erected, or in process of erection, in any town or township, through which the main line of said railroad is constructed, but not within any city without the consent of the city council, and for that purpose said corporation shall have all the powers and rights granted and be subject to all the duties imposed upon it by its charter.

The public utilities commission, upon petition of any party interested, after notice and hearing, may order any railroad company to construct, maintain and operate such a branch railroad track to any such mill, mine, quarry, log landing or yard, warehouse, storehouse or manufacturing establishment owned or operated by the petitioner, whenever said commission shall find that such track is necessary for the reasonably convenient conduct of the business of the petitioner and is warranted by the volume of business to be handled thereon and can be so constructed, maintained, and operated with due regard to safety and the reasonable operation of the railroad; provided, however, that no such order shall be made by said commission unless the petitioner shall provide, at his own expense, the right of way for such portion of said track as is not located upon the land of the railroad company; shall pay all the expense of the construction and maintenance of said track; shall furnish such security for said payment and shall comply with such conditions as to fire release and the operation of such track as the commission may prescribe. Said commission shall also have authority upon petition of any party interested after notice and hearing to order any railroad company to alter any existing branch railroad track, whenever in its judgment such alteration is necessary for the reasonably convenient conduct of the business of the petitioner. All expenses of such alteration shall be paid by the petitioner. The commission, upon petition of any party interested, after notice and hearing, may permit any party owning or occupying premises adjacent to any track, constructed under this section, to use such track for receiving or holding freight in car-load lots upon such terms and conditions as it may prescribe, including the payment of a part of the original cost of such track and of its future maintenance and suitable fire releases.

^{See c. 64, § 24; 83 Me. 277; *98 Me. 584.}

Estimation and Amount of Damages.

Sec. 31. Estimation of damages by county commissioners; guardian may release damages; damages and costs, how secured. R. S. c. 56, § 31. For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on written application of either party, made within three years after the location is filed, 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, said commissioners shall require the corporation to give security for the payment of damages and costs, 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 shall be paid to him, as will satisfy his judgment. Notes or obligations so deposited shall 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 shall be paid to the treasurer of the corporation. When it neglects for more than thirty days to give the security required, the owner is entitled to the remedies by injunction herein provided.

See c. 64, § 24; c. 84, § 1, ¶ vii; c. 94, § 108; 34 Me. 252; 47 Me. 446; *52 Me. 208; 59 Me. 537; 64 Me. 506; 65 Me. 249; *67 Me. 360; 72 Me. 99; 77 Me. 602; *86 Me. 130; 96 Me. 395, 396; *105 Me. 533; 106 Me. 368; 113 Me. 379.

Sec. 32. Notice on petitions for assessment of damages. R. S. c. 56, § 32. In all cases of petition to the commissioners of any county praying for the assessment of damages on account of any railroad corporation having taken lands therein, the notice 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.

See c. 64, § 24; 94 Me. 390.

Sec. 33. Cattle-guards and passes to be made and maintained by road; liability for double damages. R. S. c. 56, § 33. Said 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 that he has sustained by such neglect.

See c. 64, § 24; 84 Me. 39; *85 Me. 311; 113 Me. 376.

Sec. 34. County commissioners, in awarding damages may prescribe terms and conditions. R. S. c. 56, § 34. Said commissioners in awarding damages for land or other property taken by any railroad company may, on the application of such railroad company, prescribe such terms and conditions, in all respects, for the use of the land or property taken, by the owners thereof, and

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the railroad company respectively, as will secure the best accommodation of the owners, and the proper and convenient use of the same by such railroad company. In case of appeal by either party, the only question in issue shall be the amount or measure of damages on the terms and conditions imposed by the commissioners.

See c. 64, § 24; 113 Me. 378.

Sec. 35. Commissioners to report damages and rights of each party; notice. **R. S. c. 56, § 35.** Said commissioners shall at a regular session, make a report of their general estimate of damages, stating therein specifically, the terms and conditions imposed by them and the rights and obligations of each party, and cause it to be recorded; their clerk shall then make out a notice to each person, stating the amount of damages awarded to him, which shall 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 shall be added to the costs of the proceedings and paid accordingly.

See c. 64, § 24; 45 Me. 267; 52 Me. 208; 60 Me. 286; 64 Me. 506; 65 Me. 249; 67 Me. 292; *81 Me. 481.

Sec. 36. Appeal from decision of county commissioners; notice and proceedings. **R. S. c. 56, § 36.** Any person aggrieved by the decision or judgment of the county commissioners in relation to damages for land taken for railroad purposes, may appeal to the next term of the supreme judicial court to be held in the county where the land is situated, more than thirty days from the day when the report of the commissioners 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 parties 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, but no committee or jury shall alter the requirements in the report of the commissioners. The appellants shall serve written notice of such appeal upon the 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 as in other cases.

60 Me. 286; 63 Me. 363; 65 Me. 230; 67 Me. 292; 70 Me. 499; *81 Me. 481.

Sec. 37. Company may deposit damages, interest and costs. **R. S. c. 56, § 37.** 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.

See c. 64, § 24.

Sec. 38. When damages are not paid, proceedings in equity. **R. S. c. 56, § 38.** 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 shall be entitled to a bill for an injunction; and in either case, any justice 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 shall be entered, service of it made, and continued at the next term 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 an action for its recovery and protection.

See c. 64, § 24; 56 Me. 537; 58 Me. 281; 66 Me. 53; 72 Me. 100.

Sec. 39. Service of process and notices. R. S. c. 56, § 39. Service of process and notice may be made upon the president of the corporation; when no president, upon any of its officers; and 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 shall be liable to all the penalties and consequences provided for a breach of it.

See c. 64, § 24.

Sec. 40. Proceedings for breach of injunction. R. S. c. 56, § 40. The court may order persons violating such injunction, after service, 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.

See c. 64, § 24.

Towns may Aid in Construction of Railroads.

Sec. 41. City or town may aid in construction of road; proceedings. R. S. c. 56, § 41. A 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 not exceeding in all five per cent on its regular valuation for the time being, to aid in the construction of railroads, in such manner as it deems proper, and for such purpose may contract with any person or railroad corporation. At such meetings the legal voters shall 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.

See c. 64, § 24; Amendment xxii; 67 Me. 298.

Sec. 42. Provisions for payment of loan. R. S. c. 56, § 42. A city or town raising money by loan as aforesaid or under authority conferred by special act of the legislature, shall raise and pay or fund besides the interest, each year after the third, not less than three per cent of the principal. Any city or town receiving money, bonds, certificates of indebtedness or other evidence of debt in consideration of exchange, release, or sale of its securities held to indemnify said city or town for having loaned its credit, or issued its bonds in aid of any railroad shall hold such money, bonds, certificates of indebtedness, or other evidence of debt or the proceeds thereof as a trust fund to liquidate such outstanding liabilities so long as they may continue.

See c. 64, § 24.

Sec. 43. Call for meetings in cities and proceedings. R. S. c. 56, § 43. Meetings for the purposes aforesaid in cities, shall be called by the municipal officers, on the order of the common council, like meetings for the election of city officers; and said council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting

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"Yes," and those opposed, voting "No," and the ballots cast shall be sorted, counted and declared in open ward meeting and recorded; the clerks shall make returns thereof to the municipal officers, who shall examine the same; and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry it into effect. Lists of voters for use at such meetings shall be prepared in the same manner as for meetings for elections of town or city officers, and such lists shall be used at all meetings held under this section and section forty-one.

Sec. 44. City or town may vote only once a year on same question. R. S. c. 56, § 44. Whenever a 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 aiding any person or corporation, said city or town shall not vote again upon the same subject, except at its annual meetings.

See c. 64, § 24.

Sec. 45. Town agents may vote on town stock. R. S. c. 56, § 45. When a city or town holds stock in a railroad, the municipal officers thereof, or an agent appointed by them in writing, may vote thereon at any meeting of the corporation.

See c. 64, § 24.

Sec. 46. Citizens eligible as directors. R. S. c. 56, § 46. Whenever any city or town in the state, in its corporate capacity, holds one-fifth, or more, of the shares in the capital stock of any railroad incorporated by the legislature, any citizen thereof, being a freeholder and resident therein, is eligible as a director of such railroad company.

See c. 64, § 24.

Contractors' Laborers Protected.

Sec. 47. Liability of railroad companies for payment of laborers. R. S. c. 56, § 47. 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 is liable to the laborers employed, for labor actually performed on the road, if they, within twenty days after the completion of such labor, in writing, notify its treasurer that they have not been paid by the contractors. But such liability terminates unless the laborer commences an action against the company, within six months after giving such notice.

See c. 64, § 24; *85 Me. 372; 86 Me. 316; *87 Me. 245; 93 Me. 137; *95 Me. 530; 97 Me. 507.

Inspection and Supervision by Public Utilities Commission.

Sec. 48. Public Utilities Commission to examine railroads and make annual report. R. S. c. 56, § 48. 1917, c. 49. The public utilities commission, or one member thereof, or some competent person by said commission duly appointed, annually, and at any other time on application or whenever they think necessary, shall carefully examine the tracks, rolling-stock, bridges, viaducts, and culverts of all railroads; and shall annually make a report to the governor of their official doings, therein stating the condition of the road and rolling-stock, with such facts as they deem of public interest or which he may require; and all persons managing railroads shall give the commission such information as they at any time require.

Sec. 49. Passenger trains not to be run until certificate of safety is granted; penalty; attorney general to institute proceedings. R. S. c. 56, § 49. No

passenger train shall be run over any new railroad, or over any railroad in process of construction, until the public utilities commission has made an inspection of such railroad and granted a certificate of its safety for public travel; and a copy of said certificate, attested by the clerk of the commission, shall be furnished the corporation operating said railroad. Any person or corporation, violating the provisions of this section, forfeits to the state one hundred dollars for each offense, to be recovered in an action on the case, or by complaint and indictment; and the attorney-general shall institute proceedings to recover the same.

Sec. 50. Corporation to employ experienced engineer to examine bridges. R. S. c. 56, § 50. Every railroad corporation shall, when requested by the public utilities commission, have an examination made of any iron bridge or other structure, by a competent and experienced mechanical engineer, who shall report to the commission forthwith the results of his examinations, his conclusion and recommendations, and transmit a copy of the same to the corporation. The report shall furnish such information in detail, and with such drawings and prints, as may be in writing requested by the public utilities commission.

Sec. 51. Reasonable facilities furnished to commission. R. S. c. 56, § 51. 1927, c. 58. Every public utility within the state shall furnish all reasonable facilities to the public utilities commission for the prompt and faithful discharge of its duties.

See c. 64, § 24.

Sec. 52. Road unsafe, commission to notify managers. R. S. c. 56, § 52. If the public utilities commission, at any examination, find the track, culverts, bridges, or rolling-stock in use so out of repair as to be unsafe for travelers, 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 the repairs are made.

See c. 64, § 24.

Sec. 53. If managers do not comply, public utilities commission to apply to supreme judicial court to compel them, or enjoin. R. S. c. 56, § 53. If said managers do not comply with such requirements, the commission 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 attorney of such county, of the filing of said petition, 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 travelers; and unless such managers 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.

See c. 64, § 24.

Sec. 54. Commission to prohibit passenger-trains from running over railroads when unsafe. R. S. c. 56, § 54. When, in the opinion of the public utilities commission, the passage of passenger-trains over any portion of a railroad would be attended with imminent danger, they may notify the president or superintendent of such road and order the immediate stopping of all passenger-trains about to run over such portion thereof. If their order is not obeyed,

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said commission shall at once apply to some justice 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.

See c. 64, § 24.

Sec. 55. When connecting railroads do not agree as to transportation of passengers and freight they may apply to the public utilities commission. R. S. c. 56, § 55. 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 upon other matters, or when the managers of the latter road neglect or fail or refuse to perform the requirements, provisions or conditions of the charter under which they hold and operate their railroad and acts additional and amendatory thereto, they may apply to the public utilities commission in writing, and any commissioner 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; said commission has the authority of courts of law to summon witnesses, and compel their attendance and testimony, and depositions may be taken and used as in suits at law. When the hearing is closed, the public utilities commission 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 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.

Sec. 56. Award to be returned to court for action; exceptions may be taken, and how heard; award, when accepted, binding; and court to make it effectual; penalty for failure to comply with award. R. S. c. 56, § 56. 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; 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 as if at a regular law term. When the award is accepted and judgment rendered thereon, it is binding on all parties notified, whether they appeared or not, until a new award is made on another application; 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 operating the same shall be fined 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.

Sec. 57. Station grounds not to be taken by another company. R. S. c. 56, § 57. No railroad corporation shall take the grounds occupied by any other railroad company and necessary for its use for station purposes, without its consent. When application is made to take such grounds, the public utilities commission, 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.

See c. 27, § 32.

Sec. 58. Use of railroad passenger stations regulated. R. S. c. 56, § 58. Whenever any railroad passenger station shall be erected or maintained in any city or town in this state, any railroad corporation having or using a track or passenger station within such city or town, shall have the right to run its passenger-trains to and from such station, over any railroad track or tracks leading thereto as herein provided, and to use the same for the purpose of delivering and receiving through passengers, under such reasonable terms and regulations, and over such tracks as may be agreed upon by the owner of such station, the railroad whose tracks are used in running to and from the same, and the railroad corporation so desiring its use for said purpose, and in case of disagreement, upon petition, notice, and hearing thereon, the public utilities commission shall fix and determine such terms, tracks, and regulations. No corporation which shall deny, in any proceedings, the authority of the public utilities commission to proceed and make the determination as herein provided, or which shall refuse to abide by their decision rendered therein, shall avail itself of the provisions of this section.

Sec. 59. Public Utilities Commission may order the erection of a station. R. S. c. 56, § 59. The public utilities commission, upon petition of responsible parties, representing that public convenience and necessity require the erection and maintenance of a station for freight and passengers, or for passengers alone, on the line of any railroad, after fourteen days' notice by copy of said petition upon such corporation, and by publishing said petition, with the order of said commission thereon, in such public newspaper as is 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 station shall be erected, or maintained if erected, and whether for passengers or for passengers and freight.

142 U. S., 492, 503; 63 Me. 274, 284.

Sec. 60. Site and kind of station. R. S. c. 56, § 60. Said commission shall designate the site and the kind of buildings to be erected and maintained, as the case seems to demand, and the time in which such corporation shall comply with said order.

63 Me. 284.

Sec. 61. Proceedings, if company refuses. R. S. c. 56, § 61. If said corporation refuses or neglects to comply with the order of said commission, within the time prescribed therein, they shall enforce a compliance as provided in section fifty-three.

*63 Me. 284.

Sec. 62. Costs of hearing to be paid by losing party. R. S. c. 56, § 62. In all cases heard before the commission under the three preceding sections, the expenses and cost attending the same shall be paid by the corporation against whom the complaint is made, if the prayer of the petitioners is granted, but if their prayer is denied, such expenses and costs shall be paid by the petitioners. If the party against whom costs are so adjudged refuses or neglects to pay them

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within thirty days after such adjudication, upon complaint for such costs made by said commission to any justice of the supreme judicial court, such justice may cause execution to issue therefor.

Crossings Regulated.

Sec. 63. Crossings of highways and streets, how made. R. S. c. 56, § 63. Railroads may cross highways or town ways in the line of the railroad, but cannot pass along them without leave of the town, but when a railroad is hereafter laid out across a highway or other public way, it shall be constructed so as to pass either over or under such way, unless the public utilities commission after notice and hearing authorize a crossing at grade. Before entering upon the construction of any railroad, the manner and conditions of crossing shall be determined as provided by section thirty of chapter twenty-seven. But no crossing of a street in a city, not a highway, shall be made without the written consent of the mayor and aldermen. Crossings not so made are nuisances, and may be so treated, and the directors of railroad corporations making them, are personally liable.

See c. 64, § 26; 45 Me. 563; 49 Me. 11, 121, 156; 51 Me. 315; 57 Me. 134; 58 Me. 47; 65 Me. 292; 77 Me. 602; 78 Me. 67; 87 Me. 249; 105 Me. 533.

Sec. 64. Ways may be raised or lowered, or course altered, on application to public utilities commission. R. S. c. 56, § 64. Highways and other ways may be raised or lowered, or the course of the same may be altered to facilitate a crossing or to permit a railroad to pass over or under the same or at the side thereof, on application to the public utilities commission, and proceedings as provided by section thirty of chapter twenty-seven; and for such purposes land may be taken and damages awarded as provided for laying out highways and other ways. The commission may prescribe the manner in which the work shall be done by the corporation. While the use of any way is thereby obstructed, a temporary way shall be provided by the corporation.

See c. 64, § 26; 38 Me. 30; *49 Me. 121, 157; 87 Me. 253.

Sec. 65. Neglect subjects to damages. R. S. c. 56, § 65. 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.

See c. 64, § 26; 49 Me. 126; 51 Me. 315; 67 Me. 357.

Sec. 66. Railroad may be carried over or under a canal or railroad; bridges and abutments to be kept in repair; proceedings when bridge or crossing is unsafe; proceedings in case of further neglect. R. S. c. 56, § 66. 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 thereby in an action on the case. Bridges and their abutments, constructed for a crossing of any way, shall 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 sixty-three of chapter twenty-seven, 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 such persons, parties or corporations, shall 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 delinquents 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 require, and may, by injunctions compel the respondents to comply therewith; or said officers may, after ten days from the service of such notice, cause necessary repairs to be made, and the expense thereof shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.

See c. 64, § 26; 97 Me. 155.

Sec. 67. Railroad company may establish temporary crossings for lumbering operations. R. S. c. 56, § 67. 1919, c. 80. A railroad company may, for the purpose of accommodating lumbering operations and for the transportation in ordinary vehicles of wood, coal, ice, hay, or other commodities, establish and maintain temporary crossings of any railroad operated by it, by agreement with any person who may request such crossing for such purposes; and upon petition, the public utilities commission, after notice and hearing, may direct any railroad company to establish and maintain such temporary crossings at such places on its line of road as said commission shall deem expedient, and thereupon said railroad company shall establish such crossing and maintain the same in accordance with the provisions of this section and the three following sections.

Whenever in the opinion of the public utilities commission, any temporary railroad crossing established under the provisions of this chapter is no longer necessary, said commission may, on its own motion or on petition of any interested party, after notice and hearing, order such crossing discontinued.

See c. 64, § 26.

Sec. 68. Crossing signs to be placed on each side of the track; whistle and bell to be sounded. R. S. c. 56, § 68. At every temporary crossing, established in accordance with the preceding section, boards with the words, "Temporary railroad crossing, stop, look, listen," distinctly painted thereon, on each side in letters plainly legible, shall be placed on each side line of the railroad right of way at such crossing, on a post or other structure, in such position as to be easily seen by persons about to cross the railroad at such places. For any such crossing, so established, engine bells shall be rung and engine whistles sounded, as provided in section seventy-two.

See c. 64, § 26.

Sec. 69. Precautions at such crossings. R. S. c. 56, § 69. 1927, c. 32. No team or vehicle shall be driven over any such crossing unless such team or vehicle shall first be stopped at the line of the railroad right of way and the driver thereof shall look and listen, and such driver or some other person for him shall go up on such crossing, ahead of such team or vehicle, and be satisfied that such team or vehicle may safely be driven over such crossing. Nothing in this section shall prevent the public utilities commission from making such further regulations for safety at any such crossing established under their direction, as they may deem expedient or necessary.

See c. 64, § 26.

Sec. 70. Crossings to be kept open part of year; expense may be apportioned. R. S. c. 56, § 70. Each such crossing shall be kept open only during such time each year as the parties interested therein may agree upon, or as the public utilities commission may specify in cases where the commission directs such crossings to be established. When the public utilities commission shall direct any such temporary crossing to be established, they shall determine who shall bear the expense of establishing and maintaining such crossing, and they may, if they

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see fit, apportion such expense between the railroad company and the person or persons who shall have petitioned for such crossing; provided that the expense of the crossing signs and the planking between the rails shall, however, in any event be borne by the railroad company.

See c. 64, § 26.

Sec. 71. Company to erect and maintain bridge-guards; penalty for refusal, neglect, or injury. R. S. c. 56, § 71. 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 must be approved by the public utilities commission, and be erected and adjusted to their satisfaction. Any corporation refusing or neglecting to comply with this section, for each month of continuance in such neglect or refusal, forfeits fifty dollars; and whoever wilfully destroys or breaks any such bridge-guard forfeits not exceeding one hundred dollars, and may be imprisoned not exceeding thirty days.

See c. 64, § 26.

Sec. 72. Signboards to be maintained at grade crossings; bell on engine and when to be rung; public utilities commission may require whistle or sounding of bell for warning. R. S. c. 56, § 72. 1921, c. 16. 1925, c. 115. Every railroad corporation shall cause sign-boards with the words "Railroad Crossing" distinctly painted on each side thereof in letters plainly legible, to be placed and constantly maintained at the side of highways and town ways where they are crossed at grade by such railroads, on posts or other structures, in such position as to be easily seen by persons passing upon such ways; and every such corporation shall cause a steam whistle, and a bell of at least thirty-five pounds in weight to be placed upon each locomotive used upon its railroad, and such whistles shall be sounded as a warning beginning at a distance of sixty rods on standard gauge railroads and beginning at a distance of sixty rods on narrow gauge railroads from all crossings of such ways on the same level, unless the public utilities commission upon petition of the corporation or of the municipal officers or of ten or more legal voters of any city or town in which such crossing is located, after notice and hearing, shall order the sounding of such whistle to be discontinued in any city or village until further order of the commission; and such bell shall be rung at a distance of sixty rods on standard gauge railroads and sixty rods on narrow gauge railroads, from such grade crossings, and be kept ringing until the engine has passed the same; provided, however, that upon petition of ten or more legal voters of the state, after notice to the railroad corporation and a public hearing, the public utilities commission may in writing order such corporation to give additional warning to travelers upon such ways by requiring the sounding of such whistles or the ringing of such bells at other places where said railroads cross such public ways other than at grade or run contiguous thereto, and such orders shall have the same force, and place the same obligations upon railroad corporations as when required under the provisions of this section.

See c. 64, § 26; *55 Me. 441; 57 Me. 134; 67 Me. 105; 97 Me. 161; 113 Me. 271; 120 Me. 154.

Sec. 73. Town officers may request company to provide gates at railroad crossings; application to public utilities commission in case of refusal. R. S. c. 56, § 73. 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 make such request in writing; and in case of neglect or refusal they may apply to the public utilities commission to decide upon the reasonableness of such

request, who after notice and hearing, shall decide. When they decide that such a request is reasonable, or that at said crossing a flagman or automatic signals are necessary for the public safety, they may, upon said application, order a flagman to be stationed or automatic signals to be maintained there instead of gates, and the corporation shall comply with such order and pay the costs; when they decide otherwise, the costs shall be paid by the applicants.

See c. 64, § 26; 88 Me. 225; *89 Me. 563; 111 Me. 183; 120 Me. 154; *123 Me. 383.

Sec. 74. Penalty for neglect of two preceding sections, and liability to action for damages. R. S. c. 56, § 74. 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 traveler on a way, neglecting to do so, 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.

See c. 64, § 26; 57 Me. 134.

Sec. 75. Public utilities commission may determine manner in which railroads to cross each other; application, notice, and hearing. R. S. c. 56, § 75. The public utilities commission shall determine the manner and conditions of one railroad of any kind crossing another. Any corporation or party operating such railroad may apply to said commission for a change in the then existing condition, construction, or manner of any such crossing. Such application shall be in writing, giving the location of the crossing, and said commission shall give a hearing thereon, after they have ordered such notice to be given by the applicants, as to the time, place, and purposes of such hearing, as the commission shall deem proper. The public utilities commission shall determine at such hearing what changes, if any, are necessary, and how such crossings shall be constructed and maintained, the expense thereof to be borne as the commission may order.

89 Me. 334, 563; 98 Me. 80.

Sec. 76. Crossing over railroad already built to be made as ordered by commission; application, notice, and hearing. R. S. c. 56, § 76. In the case of a railroad company of any kind whose tracks are to be constructed across the tracks of any railroad already built, such crossings shall be made, constructed, and maintained in such manner and under such conditions as shall be ordered by the public utilities commission, the expense thereof to be borne as the commission may order. The parties contemplating making such crossing shall apply to the commission in writing, giving the location of the crossing desired, and said commission shall give a hearing thereon after they shall have ordered such notice to be given by the applicants of the time, place, and purposes of such hearing as said board shall deem proper. At such hearing the public utilities commission shall determine the manner and conditions of construction and maintenance of such crossing and make their report as hereinafter provided.

89 Me. 334; 98 Me. 80.

Sec. 77. Bridges erected by municipalities to be maintained as commission may determine after hearing. R. S. c. 56, § 77. Bridges erected by any municipality, over which any street railroad passes, shall be constructed and maintained in such manner and condition, as to safety, as the public utilities commission may determine. The commission may require the officers of the railroad company and of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as said board may deem proper. The public utilities commission shall determine at such hearing the repairs, renewals, or strengthening of parts, or if necessary, the manner of rebuilding such

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bridge, required to make the same safe for the uses to which it is put. They shall determine who shall bear the expenses of such repairs, renewals, strengthening, or rebuilding, or they may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by the commission just and fair, and shall make their report as hereinafter provided.

See c. 64, § 7; 98 Me. 80; 105 Me. 430, *109 Me. 295.

Sec. 78. Commission to make report of decisions, and send copies to parties interested. R. S. c. 56, § 78. The public utilities commission shall make a report in writing of their decision in all matters named in the three preceding sections, file the same in their office, and cause a copy of such decision to be sent by mail to each of the railroad corporations, or the municipal officers of the cities or towns as the case may be, interested therein.

89 Me. 334.

Note. Duties of railroad companies in the prevention of forest fires, c. 11, §§ 43-45. Ways may not be located over land of railroad company without notice to company, c. 27, § 29.

Public utilities commission to determine whether crossing shall be at grade or not, c. 27, § 30; whether way shall be laid out across land used for station purposes, c. 27, § 32; whether grade crossing shall be abolished, c. 27, §§ 34-36.

Railroad companies may be notified and take upon themselves defense of action for damages at crossing, c. 27, § 96.

State highway commission may cause removal of trees, bushes and other encroachments obstructing view at crossing, c. 27, § 111.

CHAPTER 63.

The Management and Operation of Steam Railroads.

- Sections 1- 8 Regulation of Fares and Tolls.
- Sections 9- 10 Police Regulations at Stations.
- Sections 11- 21 Transportation Regulated.
- Sections 22- 25 Fences and Trespasses on Adjoining Lands.
- Sections 26- 27 Judgments against Road leased by Foreign Corporations.
- Sections 28- 35 Shares, Coupons, and Mortgages.
- Sections 36- 49 Foreclosure and Redemption of Mortgages.
- Sections 50- 59 Rights of Purchasers Under Sale.
- Sections 60- 98 Provisions of Safety.
- Sections 99-102 Railroad Equipment.

Regulation of Fares and Tolls.

Sec. 1. Railroad companies may establish fares and tolls, subject to revision and alteration. R. S. c. 57, § 1. Any railroad corporation may establish and collect, 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 shall have a lien on its freight therefor; 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 are at all times subject to alteration by the legislature, or by such officers or persons as the legislature may appoint for the purpose, anything in the charter of such corporation to the contrary notwithstanding.

*53 Me. 282; 86 Me. 276.

Sec. 2. Rights of ticket holders. R. S. c. 57, § 2. No railroad company shall limit the right of a ticket-holder to any given train, but such ticket-holder may travel on any train, whether regular or express, and may stop at any of the

stations along the line of the road at which such trains stop; and such ticket shall be good for a passage as above for six years from the day it was first issued; 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.

60 Me. 519; 67 Me. 165; 72 Me. 389; 84 Me. 286; *101 Me. 488.

Sec. 3. Railroad tickets; cancelation and exchange. R. S. c. 57, § 3. The preceding section shall not prevent railroad corporations from establishing necessary rules and regulations for the cancelation of tickets, and exchange of partially used tickets; but such rules and regulations shall 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 continues in force for the full term of the original ticket, as provided in said section.

Sec. 4. Sale of limited tickets, regulated. R. S. c. 57, § 4. No person other than a duly authorized agent of the railroad company issuing the same shall sell, offer for sale, or loan any railroad ticket limited to the use of a person or persons thereon specified at the time of its issuance by the railroad company, under a penalty of not less than ten, nor more than one hundred dollars for each offense, to be recovered on complaint.

Sec. 5. Use of such tickets restricted to persons specified. R. S. c. 57, § 5. No person, other than one specified on any railroad ticket, limited to the use of a person or persons specified thereon at the time of its issuance by the railroad company, shall offer for passage or in payment for transportation on any railroad, any such railroad ticket limited as aforesaid, under a penalty of not less than one, nor more than ten dollars for each offense, to be recovered on complaint.

Sec. 6. Mileage books shall be transferable. R. S. c. 57, § 6. All mileage coupon books issued by any railroad company shall be issued without any names written thereon or therein, limiting the use of said book, or coupons therefrom, to the persons so specified, but such books shall be absolutely transferable.

Sec. 7. Issue of mileage books regulated. R. S. c. 57, § 7. All railroad corporations or companies doing business in this state and conveying passengers over any road or roads owned or operated by any motive power, whether owned or operated by them in their own or other names, under lease or otherwise, which now, or hereafter may issue a mileage ticket of one thousand one-mile coupons for the use of the traveling public and keep the same on sale at their regular passenger stations, shall also issue a mileage ticket of five hundred one-mile coupons, and sell the same at all stations where the one-thousand-mile ticket is now or hereafter may be sold, at the same rate per mile as the one-thousand-mile ticket may be sold. The holder of any such mileage ticket shall be entitled to travel by any regular passenger-train over the road issuing the same and all lines of railroad owned, operated, or leased by it, as many miles as there are coupons contained in such ticket; provided, however, that the minimum mileage to be detached shall be regulated by the printed contract contained in such ticket.

Sec. 8. Penalty for evading payment of fare, or riding on freight train. R. S. c. 57, § 8. 1917, c. 20. No person is entitled to transportation over a steam railroad, street railroad, or upon any steamboat or ferry, or in a taxicab or public automobile, who does not on demand first pay the established fare. Whoever while being transported over any steam railroad, street railroad, steamboat, ferry, or in a taxicab or public automobile, wilfully refuses on demand to pay the established fare, and whoever fraudulently evades payment of the established fare by giving a false answer, or by traveling beyond the place to which he has paid,

or by leaving a train, street railroad car, steamboat, or ferry, or taxicab or public automobile, without paying the established fare, whether said fare is demanded or not, or whoever without right or authority rides in or upon any freight train, forfeits not less than five, nor more than twenty dollars, to be recovered on complaint.

Police Regulations at Stations.

Sec. 9. Loitering in any railroad or steamboat station or grounds, forbidden, penalty. R. S. c. 57, § 9. 1925, c. 53. No person shall loiter or remain, without right, within any car, or 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, and no person or driver or owner of any automobile or other vehicle shall solicit passengers in any station or on the station grounds or wharves of any railroad corporation or steamboat corporation in competition with such railroad corporation or steamboat corporation, without a written permit signed by an officer of such corporation authorized to issue the same. Whoever violates this section shall be punished by a fine of not exceeding one hundred dollars.

Sec. 10. Copies of law to be posted. R. S. c. 57, § 10. The officers of all railroad corporations and steamboat companies, shall cause a copy of the preceding section to be posted in a conspicuous place at the several stations along the line of their roads and route of their steamboats.

See c. 64, § 24.

Transportation Regulated.

Sec. 11. Intersecting roads. R. S. c. 57, § 11. Railroads intersecting or crossing each other shall be deemed, for all business purposes, connecting roads.

Sec. 12. Trains due at same hour at crossing must wait and give time to change baggage. R. S. c. 57, § 12. 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 to change with their baggage from one train to the other; and the superintendent, conductor, and engineer of the road violating this provision forfeits to the state for each offense, not less than ten, nor more than fifty dollars, to be recovered on complaint or by indictment.

47 Me. 200.

Sec. 13. Railroads to furnish equal facilities to all expresses. R. S. c. 57, § 13. Every railroad operating in the 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 stations, buildings, and grounds, and for exchanges at points of junction with other roads, under a penalty not exceeding five hundred dollars, to be recovered by indictment; and are liable to the aggrieved party in an action on the case for damages.

57 Me. 197; 81 Me. 94; *113 Me. 172.

Sec. 14. Prohibition against change of location of railroad tracks, or refusal to operate road. R. S. c. 57, § 14. No railroad having established its business upon a line shall substantially deviate from the track as originally built without the consent of the legislature or the public utilities commission 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 pays dividends to its stockholders from its earnings; but this section does not permit any railroad company to cease operating its road or running its trains.

Sec. 15. Order of notice to be served on railroad corporation neglecting to run trains; proceedings at hearing; appointment of receivers. R. S. c. 57, § 15. Whenever any railroad corporation, after commencing to receive tolls, neglects or refuses regularly to run trains upon and to operate its road for the transportation of passengers and freight for sixty days at any one time, the public utilities commission, 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 thereof 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 its opinion 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 thereto, and shall require such receivers to give bond to said corporation in a reasonable sum, with sureties satisfactory to the court, for the faithful discharge of their trust, and shall also determine their compensation.

Sec. 16. Notice of appointment of receivers; their duties and authority. R. S. c. 57, § 16. Such receivers immediately after giving the required bond shall give notice of their appointment by publishing the same three weeks successively in one newspaper printed in each county through which said railroad extends, and shall immediately take possession and control of said railroad, and all its rolling-stock, and stations, together with all appendages belonging to the same and necessary for the convenient use thereof, and shall diligently proceed to repair and refurnish said railroad, its rolling-stock and other appendages, and operate the same for the accommodation of the public. Said receivers have the same authority to demand and receive tolls and otherwise manage said railroad, and are subject to the same restrictions as are conferred and enjoined by the charter of said railroad upon its original corporators, and as may be provided by law.

Sec. 17. Receivers, authorized to raise money by loan, to repair railroad; lien for payment of loan. R. S. c. 57, § 17. If said railroad, its track, bridges, rolling-stock, and other appendages, shall be found to be too much out of repair, or its rolling-stock and other appendages insufficient in amount to admit of safely or successfully 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 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 tracks, 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, road-bed, track, stations, buildings, and equipment, pertaining to and constituting said railroad, for the payment of the principal and interest thereof. Said loan, secured by such lien, takes precedence of all mortgages, bonds, stock, or other title or claim of indebtedness of any kind whatsoever, then existing or thereafter created on said railroad.

Sec. 18. Railroad to be restored to corporation, on certain conditions. R. S. c. 57, § 18. Any justice of the supreme judicial court sitting in the county where the original petition was filed, on petition of said railroad corporation or its owners, and after reasonable notice to such receivers, may revoke their authority and restore the possession and control of said railroad to said corporation or its owners, upon their paying the principal and interest of the aforesaid loan then existing, together with the sum due said receivers for their personal services, with all the expenses incurred in operating and repairing said railroad and its appendages during their continuance in their said capacity, over and above the earnings thereof; provided, however, that said railroad corporation or its owners give bond to the state in such sum as the court orders, with sureties satisfactory to the court, conditioned that said 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 public utilities commission, for five years following said order.

Sec. 19. Public utilities commission may decide amount due receivers. R. S. c. 57, § 18. If said receivers and said railroad corporation or owners are unable to agree upon the amount due said receivers from said corporation or its owners, the question shall be referred by order of court to the determination of the public utilities commission, whose decision made to said court and accepted shall be final in the premises, and in no case shall said corporation or its owners receive possession and control of said railroad until said receivers are paid or tendered the full amount due them, as aforesaid, except by their written consent.

Sec. 20. Vacancies in office of receivers, how filled. R. S. c. 57, § 20. The court may fill all vacancies in said office of receiver, and at the time of appointing said receivers or at any subsequent time during their continuing in said capacity, may issue all orders or decrees necessary to aid them in the full and faithful discharge of their said trust, and cause the same to be promptly enforced.

Sec. 21. Questions of law, how determined. R. S. c. 57, § 21. 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.

Fences and Trespasses on Adjoining Lands.

Sec. 22. Fences, how and where made; liability for injuries. R. S. c. 57, § 22. Where a railroad passes through enclosed or improved land, or wood-lots belonging to a farm, legal and sufficient fences shall be made on each side of the land taken therefor, before the construction of the road is commenced, and such fences shall be maintained and kept in good repair by the corporation. For any neglect of 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 shall be fined a sum sufficient to make or repair the fence, to be recovered by indictment and expended by an agent appointed by the court therefor.

See c. 64, § 24; 29 Me. 308; *39 Me. 276; 46 Me. 166; 59 Me. 534; 60 Me. 243; 63 Me. 309; *65 Me. 338; 82 Me. 124; 87 Me. 306, *327; 98 Me. 512; 100 Me. 407; 105 Me. 530; *115 Me. 467.

Sec. 23. Line fences to be built on notice of abutter. R. S. c. 57, § 23. The

owner of any enclosed or improved land or wood-lot belonging to a farm abutting upon any railroad which is finished and in operation may at any time between the twentieth day of April and the end of October give written notice to the president, treasurer, or either of the directors of the corporation owning, controlling, or operating such railroad, that the line fence against his land has not been built, or if built, that the same is defective and needs repair. And if said corporation neglects to build or repair such fence for thirty days after receiving such notice, it forfeits to such owner one hundred dollars, to be recovered in an action on the case.

See c. 64, § 24; 39 Me. 276; 60 Me. 244; 82 Me. 124; 98 Me. 511.

Sec. 24. Injuring fences or turning animals into railroad enclosure. R. S. c. 57, § 24. Whoever takes down or intentionally injures any fence erected to protect the line of any railroad or turns any horse, cattle, or other animal upon or within the enclosure of such railroad shall be fined not less than ten, nor more than one hundred dollars, or imprisoned not less than ten days nor more than six months.

See c. 64, § 24.

Sec. 25. Company liable for trespasses on adjoining land. R. S. c. 57, § 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 employment, or occasioned by its order, if the party injured within sixty days thereafter, gives notice thereof to the corporation; but its liability does not extend to acts of wilful and malicious trespass. The person committing a trespass is also liable.

See c. 64, § 24; *59 Me. 534; 62 Me. 438.

Judgments Against Road Leased by Foreign Corporation.

Sec. 26. Judgment for damages collected of foreign railroad company leasing railroad. R. S. c. 57, § 26. When any foreign railroad company which is or has been doing business in this state, as the lessee of any railroad, refuses or neglects for sixty days after demand, to pay and discharge any judgment recovered by any person against the company owning such leased road for damages to the property of such person by the doings, misdoings or neglects of such foreign company, its agents or servants, which judgment belongs in equity to such foreign company to pay and discharge, the supreme judicial court, on petition, may compel payment thereof by such foreign corporation, and make, pass, and enforce all necessary orders, decrees and processes for the purpose.

Sec. 27. Judgment creditor may have remedy against lessors. R. S. c. 57, § 27. When any such judgment is recovered, and such foreign company neglects, for sixty days, to satisfy it, the judgment creditor may have an action on the case against such foreign company for the recovery of the amount of such judgment, with interest and costs.

Shares, Coupons, and Mortgages.

Sec. 28. Shares, how transferred. R. S. c. 57, § 28. Shares in the capital of such corporations are personal estate, and may be transferred in the same manner and with the same rights as shares in other corporations are transferred.

See c. 64, § 24; see c. 55, § 35.

Sec. 29. Rights of holders of coupons. R. S. c. 57, § 29. When coupons for interest issued with bonds, are, for a valuable consideration, detached and assigned by delivery, the assignee may maintain assumpsit upon them in his own name against the corporation engaging to pay them.

See c. 64, § 24; 49 Me. 516; 103 Me. 278.

Sec. 30. Trustees of railroads; vacancies, filled by election; supreme judicial court may affirm elections and enforce decrees. R. S. c. 57, § 30. When a railroad corporation mortgages its franchise for the payment of its bonds or coupons, and trustees are appointed by such corporation, by special law, or by the mortgage, the bondholders, at a regular meeting called for the purpose and notified as hereinafter 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. Such decrees shall be filed with the clerk of the court where the hearing is had, and be recorded by him.

50 Me. 561; 69 Me. 398; 72 Me. 74; 74 Me. 425; 85 Me. 88.

Sec. 31. What constitutes a breach of mortgage; trustees to call meeting of bondholders. R. S. c. 57, § 31. 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, is a breach of the conditions of the mortgage; and thereupon the trustees shall call a meeting of the bondholders, by publishing the time and place thereof for 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.

50 Me. 561; 52 Me. 99; 85 Me. 88.

Sec. 32. Bondholders may have one vote for every \$100 of bonds. R. S. c. 57, § 32. At such meeting and all others, each bondholder present shall 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 operate it in their behalf.

Sec. 33. Trustees taking possession, have powers of corporation. R. S. c. 57, § 33. 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.

55 Me. 406; 74 Me. 427.

Sec. 34. Trustees to keep account of receipts and expenditures; trustees not liable; when to surrender road. R. S. c. 57, § 34. 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 equipment 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 are not 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.

See c. 90, § 6, ¶ vi; 59 Me. 48; 76 Me. 274.

Sec. 35. Trustees to call meetings of bondholders, and report; bondholders may fix their compensation, and give instructions. R. S. c. 57, § 35. 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 them the net earnings thereof; or may give them any other instruction that they deem advisable; and the trustees shall conform thereto, unless inconsistent with the terms of the trust.

74 Me. 426.

Foreclosure and Redemption of Mortgages.

Sec. 36. How and when railroad mortgages may be foreclosed. R. S. c. 57, § 36. 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 in some paper, if any, in each county into 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 every 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 claiming 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.

See c. 55, § 73; 50 Me. 561; 54 Me. 184; 59 Me. 20, 47, 69; 66 Me. 491, 507; 88 Me.

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Sec. 37. Presentation of overdue bonds and coupons for record. R. S. c. 57, § 37. 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 is not 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.

Sec. 38. Foreclosure constitutes holders a corporation, and trustees shall convey to it. R. S. c. 57, § 38. The foreclosure of the mortgage shall inure 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 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.

Certificate of organization to be filed, § 57; 59 Me. 70; *66 Me. 507; 74 Me. 426; 88 Me. 90.

Sec. 39. First meeting of new corporation; may adopt new name; may take possession and have the use of mortgaged property. R. S. c. 57, § 39. The new corporation may call its first meeting in the manner provided for 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,

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in the county, if any, otherwise in the state paper, seven days before the meeting; but, at that meeting, it may adopt a new name by which it shall always thereafter be known; and it may take and hold the possession, and have the use of the mortgaged property, although a bill in equity to redeem is pending, and it may become a party defendant to such bill. This section applies to all corporations mentioned in section fifty-four.

66 Me. 507; 88 Me. 90.

Sec. 40. New corporation may vote to redeem prior mortgage, and make assessments therefor. R. S. c. 57, § 40. 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 holders of 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.

See § 54; c. 55, § 72; 66 Me. 507.

Sec. 41. Sale of stock for non-payment; delinquent stockholder not entitled to commutation or dividends, until his assessment is paid. R. S. c. 57, § 41. 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 canceled, and may have a new one for his unsold shares; 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.

66 Me. 507.

Sec. 42. Application of funds. R. S. c. 57, § 42. 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 vest in such new corporation.

Sec. 43. Redemption of prior mortgages by junior mortgages. R. S. c. 57, § 43. When a subsequent mortgage of a railroad, its franchise, or any part of its other property, contains no provision for a sale, or contains 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.

See c. 55, § 73; 66 Me. 507.

Sec. 44. Trustees to call a meeting and mortgagees may vote to redeem; contribution. R. S. c. 57, § 44. For such purpose, the trustees of such subsequent mortgage, on 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 nearly 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.

Sec. 45. Any one interested in subsequent mortgage, may redeem. R. S. c. 57, § 45. 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 person so paying.

Sec. 46. Delinquents may afterwards pay their proportion and be restored to their rights; new corporation. R. S. c. 57, § 46. 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 until the right of redeeming the prior mortgage 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 has 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.

Sec. 47. Redemption by stockholders of the old corporation. R. S. c. 57, § 47. 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 have all the rights of those from whom they redeemed.

^{54 Me. 185.}

Sec. 48. Notice to non-contributors; their rights. R. S. c. 57, § 48. The stockholders redeeming as aforesaid, shall give notice to the stockholders who have not contributed thereto; and the latter shall have the same rights as hereinbefore provided in the case of bondholders.

Sec. 49. Extension of time of redemption after foreclosure is commenced. R. S. c. 57, § 49. 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.

Sec. 50. Purchasers at sale to have rights of original corporation; redemption. R. S. c. 57, § 50. When the franchise of a railroad and its road, wholly or

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partly constructed, or the right of redeeming the same from a mortgage thereof, are sold by a decree of 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, repairing and equipping said road, and in the purchase of necessary property therefor, after deducting the net earnings thereof.

Certificate of organization to be filed, § 57; see c. 55, § 72; 88 Me. 91.

Sec. 51. Succession to rights and obligations of original corporation, subject to alterations by law. R. S. c. 57, § 51. The trustees of bondholders or other parties under contract with them operating a railroad, and all corporations formed in the modes hereinbefore provided, have the same rights, powers and obligations as the old corporation had by its charter and the general laws; but all said rights and privileges are also subject to amendment, alteration or repeal by the legislature, and to all the general laws concerning railroads, notwithstanding anything to the contrary in the original charter.

66 Me. 509.

Sec. 52. Original corporation continues, to close business, and for suits. R. S. c. 57, § 52. The original corporation shall exist, after the foreclosure of the mortgage, for the sole purpose of closing its unsettled business; and the right of action against it or its stockholders is not thereby 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.

66 Me. 507.

Sec. 53. Supreme judicial court has equity jurisdiction of all disputes; rights at law preserved. R. S. c. 57, § 53. The supreme judicial court, in addition to the jurisdiction specifically conferred by this chapter, has 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.

85 Me. 88; 103 Me. 277.

Sec. 54. Preceding sections to apply to mortgages of corporations given to trustees, as if legally foreclosed. R. S. c. 57, § 54. Sections thirty to fifty-three, each inclusive, apply to and include all mortgages or franchises, lands, property, hereditaments, and rights of property of every 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 has been due and payable for more than three years, and remains unpaid in whole or in part, or on which no interest has been paid for more than three years, 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 forty; and the holders of said scrip or bonds shall have the benefit of said sections, and 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 an amount exceeding one-half of the same so elect in writing. And any subsequent foreclosure, in any method provided by law, of the mortgage given to secure such bonds or scrip, shall inure at

once for the benefit of such corporation, and vest therein the title acquired by such foreclosure.

Certificate of organization to be filed, § 57; see c. 55, § 72; c. 64, § 24; 171 U. S. 641; 88 Me. 92.

Sec. 55. Holders of unpaid scrip and bonds may foreclose mortgages. R. S. c. 57, § 55. A corporation formed by the holders of such scrip or bonds, or if no such corporation has been formed, the holders of not less than a majority of such scrip or bonds may commence a suit in equity to foreclose such mortgage, and the court may decree a foreclosure thereof, unless the arrears are paid within such time as the court orders.

88 Me. 96.

Sec. 56. Amount of capital stock of new corporation; value of shares; not liable to further assessment. R. S. c. 57, § 56. The capital stock of such new corporation shall be equal to the amount of unpaid bonds and overdue coupons secured by such mortgage, taken at their face at the time of the organization of the new corporation, together with 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.

Sec. 57. Certificate of organization filed with secretary of state; if railroad corporation, filed with public utilities commission. R. S. c. 57, § 57. Whenever a corporation is organized under the provisions of sections thirty-eight, fifty or fifty-four of this chapter, or under any other provision of law by which a return is not specifically required, such corporation shall file with the secretary of state, and, if a railroad corporation, also with the public utilities commission, a certificate signed and sworn to by the president, treasurer, and a majority of the directors of such corporation, therein setting forth the name of the corporation and all facts as to such organization which are necessary to give full information in relation thereto; the organization of such corporation shall date from, and it shall have the authority and rights of a corporation only after filing said certificate.

Sec. 58. New corporation may buy right of redemption. R. S. c. 57, § 58. Any corporation, formed under this chapter by the holders of railroad bonds, may acquire, by purchase, the right of redemption under the mortgage securing such bonds.

88 Me. 91; 121 Me. 18.

Sec. 59. When franchise lost, stockholders may maintain suit in equity for dissolution. R. S. c. 57, § 59. Whenever any railroad corporation, by foreclosure of a mortgage or in any other method authorized by law, has finally parted with its franchise to construct, operate, and maintain the railroad described in its charter, any stockholder may maintain a suit in equity in the supreme judicial court for the winding up of the affairs and dissolution of such corporation. In such case the court shall order such notice to all parties interested as it may deem proper and proceed according to the usual course of suits in equity. But no trustee shall be appointed, except upon motion of some party to the proceedings and then only in the discretion of the court.

Provisions for Safety.

Sec. 60. Number of brakemen. R. S. c. 57, § 60. No train of passenger-cars, moved by steam, shall be run without one trusty and skilful brakeman to every two cars.

101 Me. 469.

Sec. 61. Danger signals, where disconnected cars are left on track. R. S. c. 57, § 61. No car disconnected from a train, shall be left or permitted to remain standing on the main track of any railroad, unless accompanied by danger signals, such as flagging by day and lanterns by night, placed at such distances from such obstruction, on the main line of the road, as will insure safety to and from moving trains, and such signals shall be in charge of and constantly attended by employees of the corporation owning or operating the road.

Sec. 62. Penalty for violation of Section 61. R. S. c. 57, § 62. A railroad corporation violating any provision of the preceding section, forfeits for each offense, one hundred dollars to the state, to be recovered in an action on the case, or by complaint and indictment; and the attorney-general shall prosecute therefor. Said section does not apply to street railroads.

Sec. 63. Railroad liable for damages by fire from locomotives; entitled to benefit of any insurance. R. S. c. 57, § 63. 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. But such corporation shall be entitled to the benefit of any insurance upon such property effected by the owner thereof less the premium and expense of recovery. The insurance shall be deducted from the damages, if recovered before the damages are assessed, or, if not, the policy shall be assigned to such corporation, which may maintain an action thereon, or prosecute, at its own expense, any action already commenced by the insured, in either case with all the rights which the insured originally had.

165 U. S. 13; *37 Me. 94; *42 Me. 583; 46 Me. 114; 47 Me. 524; 58 Me. 85; 60 Me. 300; *63 Me. 296; 74 Me. 424; 76 Me. 274; 78 Me. 417, 480; *85 Me. 505; 86 Me. 422; 87 Me. 412; *90 Me. 156; 91 Me. 95; 93 Me. 58; 94 Me. 173; 99 Me. 198; 106 Me. 443; 111 Me. 150; *112 Me. 82, 351, 515; 113 Me. 130; *116 Me. 231, 355.

Sec. 64. Intoxication of train officer, engineer, or switchman, punished. R. S. c. 57, § 64. Whoever, having charge of a locomotive engine, or acting as conductor, brakeman, motorman, or switchman, is intoxicated while employed on a railroad, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding six months.

See c. 64, § 24.

Sec. 65. Negligence of employee, punished. R. S. c. 57, § 65. Any person employed in conducting trains who is guilty of negligence or carelessness causing an injury, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding one thousand dollars; but the corporation employing him is not thereby exempt from responsibility.

See c. 64, § 24; 43 Me. 270; 57 Me. 218; 63 Me. 70.

Sec. 66. No liability for death of person walking on road. R. S. c. 57, § 66. No railroad corporation shall be liable for the death of a person walking or being on its road contrary to law, or to its valid rules and regulations.

115 Me. 467.

Sec. 67. Forfeiture for standing or walking on track or bridge; for entering upon track with team. R. S. c. 57, § 67. Whoever without right, stands or walks on a railroad track or bridge, or passes over such bridge except by railroad conveyance, forfeits not less than five, nor more than twenty dollars, to be recovered

by complaint; and whoever, without right, enters upon any railroad track with any team, or any vehicle however propelled, or drives any team or propels any vehicle upon any railroad track, shall be punished by fine of not less than fifty dollars, or by imprisonment not less than thirty days.

100 Me. 569; 115 Me. 467; 117 Me. 420.

Sec. 68. Printed copy of preceding section to be posted. R. S. c. 57, § 68. A printed copy of the preceding section shall be kept posted in a conspicuous place in every railroad passenger station; for neglect thereof, the corporation forfeits not exceeding one hundred dollars for every offense.

Sec. 69. Punishment for stranger getting upon or leaving train when in motion; liability of corporation not affected. R. S. c. 57, § 69. Any person, other than a servant or employee of the road, or a passenger holding a ticket for a passage over the same, or mail agent or expressman, who gets upon or leaves 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 imprisoned not exceeding thirty days, or fined not exceeding ten dollars; but this provision does not affect the liability of any railroad corporation for injuries or damages caused by the fault or negligence of the corporation or its servants.

Sec. 70. Penalty for disorderly conduct on any public conveyance. R. S. c. 57, § 70. 1917, c. 157. Any person in a state of intoxication and not in the custody of an officer who enters or remains in or on or loiters about the rolling stock, stations, station grounds, waiting rooms, platforms or yards of any steam or street railroad or the right of way, bridges, or tracks of any steam railroad or the boats, wharves, or ships of any steamboat or ferry company, and any person who behaves in a disorderly or riotous manner or drinks intoxicating liquors or uses indecent or profane language in any such place, car or boat, is guilty of a breach of the peace and shall be fined not less than five nor more than five hundred dollars or imprisoned in jail not less than thirty days nor more than one year, in addition to any other penalty provided by law.

Sec. 71. Officer in charge may refuse to permit such person to enter; may eject such offender; may call for assistance; may arrest and hold such offender. R. S. c. 57, § 71. 1917, c. 157. Any person or persons in charge of the property mentioned in the preceding section and any person or persons thereunto authorized or called upon by such person or persons in charge of said property may refuse to permit any person in a state of intoxication and not in the custody of an officer to enter said premises or property and may eject in a reasonable manner and at reasonable places any person found violating the preceding section and may arrest and temporarily hold any person found violating the provisions of the preceding section until a warrant can be obtained or he can be placed in the custody of the proper officers of the law. It shall be the duty of every sheriff, deputy sheriff, constable, city or deputy marshal, or police officer to arrest, and detain until a legal warrant can be obtained, any person found violating the provisions of the preceding section.

Sec. 72. Size and construction of caboose-cars regulated. R. S. c. 57, § 72. Except as otherwise provided in the following section, no common carrier by railroad shall use on its lines any caboose-car, or other car used for like purposes, unless such caboose or other car shall be, at least, twenty-nine feet in length, exclusive of platforms, and equipped with two four-wheel trucks, and shall be of constructive strength equal, at least, to that of the twenty-ton capacity freight-cars constructed according to master car-builder standards, and shall be provided with a door in each end thereof and an outside platform across each end of said car; each platform shall be not less than twenty-four inches in width, and shall

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be equipped with proper guard-rails, and with grab-irons and steps for the safety of persons getting on and off said car; the steps shall be equipped with a suitable rod, board, or other guard at each end and at the back thereof, properly designed to prevent slipping from said step. Caboose-cars shall be of standard height, with cupola, and necessary closets and windows.

113 Me. 270; 120 Me. 154.

Sec. 73. Persons and corporations to whom section 72 applies. R. S. c. 57, § 73. The provisions of the preceding section shall apply to any corporation, or to any person or persons, while engaged as common carriers in the transportation by standard guage railroad of passengers or property within this state to which the regulative power of this state extends. Provided, however, that said provisions shall not apply to any railroad company operating less than twenty miles of single track, nor to caboose-cars used by the Maine Central Railroad Company on the following parts of its lines, namely; between Waterville and Skowhegan; between Pittsfield and Hartland; between Burnham and Belfast; between Leeds Junction and Farmington; between Bangor and Bucksport; between Calais and Princeton; between Livermore Falls and Canton, and between Lewiston lower station and Bath, via Brunswick.

120 Me. 154; *123 Me. 383.

Sec. 74. Penalty for violation of § 72. R. S. c. 57, § 74. Any common carrier who violates section seventy-two shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than one hundred, nor more than five hundred dollars for each offense, to be enforced on complaint or by indictment.

Sec. 75. Frogs and guard rails to be blocked for protection of employees. R. S. c. 57, § 75. Every railroad corporation operating a railroad or part of a railroad in the state, shall adjust, fill or block the frogs and guard-rails on its track, with the exception of guard-rails on bridges, in a manner satisfactory to the public utilities commission, so as to prevent the feet of employees from being caught therein. Any railroad corporation failing so to do, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars.

93 Me. 80.

Sec. 76. Method of heating cars shall be approved by public utilities commission. R. S. c. 57, § 76. No passenger, mail or baggage-car on any railroad in the state shall be heated by any method of heating or by any furnace or heater, unless such method or the use of such furnace or heater shall first have been approved in writing by the public utilities commission; provided, however, that in no event shall a common stove be allowed in any such car; and provided also, that any railroad corporation may, with the permission of said board, make such experiments in heating their passenger-cars as said board may deem proper.

Sec. 77. Lighting by naphtha, prohibited. R. S. c. 57, § 77. No passenger-car on a railroad shall be lighted by naphtha, nor by an illuminating-oil or fluid made in part of naphtha, or which will ignite at a temperature of less than three hundred degrees Fahrenheit.

119 Me. 179.

Sec. 78. Penalty for violation. R. S. c. 57, § 78. Any railroad corporation violating any provision of the two preceding sections forfeits not exceeding five hundred dollars.

Sec. 79. Highways, how to be passed. R. S. c. 57, § 79. 1917, c. 174. The public utilities commission is authorized to fix a maximum speed limit at which trains may be run over any grade crossing of a highway or other way and when such limit has been by said commission fixed no engine or train shall be run over such crossings at a greater speed than that fixed by the commission and no way

shall be unreasonably and negligently obstructed by engines, tenders or cars. The corporation forfeits not exceeding one hundred dollars for every such offense.

59 Me. 190; *80 Me. 430; 81 Me. 267; 87 Me. 547; 101 Me. 478; 106 Me. 301; *114 Me. 92; 116 Me. 179; 120 Me. 157; 121 Me. 177.

Sec. 80. Safety switches and switch lights at every siding. R. S. c. 57, § 80. Every railroad company running express trains in this state shall place safety switches of an approved sort at every siding connecting with the main track; switch lights shall also be maintained throughout that portion of every railroad where trains are run after dark.

Sec. 81. Penalty for changing switch or lights. R. S. c. 57, § 81. Whoever, without authority, shall alter, change, or in any manner interfere with any safety switch or switch lights on any railroad, shall be liable to a fine of not less than one hundred dollars, or imprisonment for not less than sixty days.

Sec. 82. Railroad signals, penalty for injuring or tampering with. R. S. c. 57, § 82. Whoever intentionally and without right injures, destroys, or molests any signal of a railroad corporation, or any line, wire, post, lamp, or other structure or mechanism used in connection with any signal on a railroad, or destroys or in any manner interferes with the proper working of any signal on a railroad, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding two years.

Sec. 83. Speed at railroad crossings; signals to warn approaching trains; penalty. R. S. c. 57, § 83. When one railroad crosses another 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 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; in which case the conductor or person in charge of the train shall station some person 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 is sufficient; any such engineman, conductor, or person in charge of the train violating this provision forfeits, for each offense, one hundred dollars, and the corporation on whose road the offense is committed forfeits two hundred dollars.

Sec. 84. Regulation of signals at railroad crossings; signals for approaching trains; preference given to passenger trains at crossings. R. S. c. 57, § 84. When railroads cross each other at grade, the parties operating the railroad last located there, shall build and maintain a suitable signal-station at such crossing, at which a competent signal-officer shall be kept at the joint expense of the parties operating the railroads. The signal shall not be set for a train to cross, until the engine of such train shall have arrived within five hundred feet of the intersection and stopped; and no train or engine shall cross the track of the other road, until the proper signal for it to cross shall have been set in position by the signal-officer. Only one train or engine shall be allowed to cross under one setting of the signal unless coming from opposite directions on the same railroad. When the signal has been set for the trains on one of the railroads, it shall not be changed until those trains shall have passed entirely over the crossing. When trains on both railroads approach the crossing at about the same time, preference shall be given to passenger-trains and the signal shall be set for the trains on each road in alternate order.

Sec. 85. Automatic signals may be established at railroad crossings; railroad, establishing such system, exempt from provisions of sections 83, 84. R. S. c.

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57, § 85. The public utilities commission may, on the application of any railroad corporation whose road crosses another railroad at the same level, after due notice and hearing of the parties, authorize the applicant to establish and maintain a system of interlocking or automatic signals, at any crossing of said roads, at its own expense, and erect and maintain the necessary wires, rods, signal-posts and signals, in such manner as the commission shall prescribe. And when such system is established, and has been approved in writing by said commission, the corporation establishing the same, and its railroad, shall be excepted, as to that crossing, from the provisions of the two preceding sections, so long as the public utilities commission shall continue their approval.

*89 Me. 563.

Sec. 86. When both such railroads may be exempt from provisions of sections 83, 84; payment of expense of such system; revision of award. R. S. c. 57, § 86. Whenever, after the establishment and approval of such system of signals, the party owning or operating said other railroad at such crossing shall have paid to the corporation by which said signals were established such part of the cost for establishing the same as shall, after hearing on petition of the party owning or operating said other railroad, be awarded by the public utilities commission, both railroads shall be excepted, as to that crossing, as provided in the preceding section, from the provisions of sections eighty-three and eighty-four. Until such payment said other railroad corporation shall contribute toward the expense of operating said signals, in semi-annual payments, a sum equal to the cost to it of operating the signals used by it at said crossing before the establishment of the signals herein provided for. After payment of the award aforesaid the expense of maintaining and operating the same shall be borne by the two railroad corporations according to the proportions fixed by the award for paying the original cost of the signals. And said award, so far as it relates to the cost of maintaining and operating said signals, may, at the request of either party, be revised after an interval of five years from the original award or from the award next preceding such request.

Sec. 87. Location of railroad near the station of another company forbidden. R. S. c. 57, § 87. No railroad company shall construct or maintain a track, or run an engine or cars on a street or highway so near any station of another railroad as to endanger the safety and convenient access to and use of such station for ordinary station purposes.

65 Me. 123.

Sec. 88. Public utilities commission may require installation of automatic signals at railroad crossings; expense, how borne; term defined. 1917, c. 145, § 1. 1919, c. 116. The public utilities commission is hereby given authority to require each steam railroad company operating within this state to install, operate, and maintain an automatic signal at any highway crossing within this state, where, after reasonable notice and hearing, said commission shall decide that public safety requires such signal as a proper measure of protection. The expense of installing, operating, and maintaining any such signal shall be borne by the corporation operating the railroad passing over the crossing to be protected. Wherever the term "signal" or "automatic signal" is used in this act, same shall be construed to be an appliance which gives warning of the approach of a train and which is either audible and visible by day and by night, or audible or visible, as may be determined by the commission.

Sec. 89. Commission shall designate crossings. 1917, c. 145, § 2. The public utilities commission shall designate by general orders, which may be issued without formal notice or hearing, the grade crossings in this state at which,

from all points on the highway or other way within one hundred and fifty feet of such crossings and on either side thereof measured along said highway or way a traveler on the way carrying such crossing can have a fair view of an approaching train, engine, or car continuously from the time such train, engine or car is three hundred feet from such crossing until it has passed over the same, either under existing conditions or by bushes, trees, fences, signboards, or encroachments being trimmed, cut down, or removed, as hereinafter provided.

Sec. 90. Municipal officers, on order of commission, to remove obstructions; ten days' notice to be given to interested parties. 1917, c. 145, § 3. 1921, c. 17, § 1. At every crossing of a highway or other way and a steam railroad at grade and at every crossing of a highway or other way and an electric railroad at grade the municipal officers of the town in which the crossing is located are given authority and are hereby required, when by order directed so to do by the public utilities commission, after ten days' notice to all persons interested, to remove embankments and other obstructions within highway limits and to enter upon private property and properly trim, cut down, or remove, and from time to time as may be necessary to keep trimmed, cut down, and removed, bushes, trees, fences, signboards, and encroachments which obstruct the view of an engine, train, or car by a traveler at or near any such crossing. The authority of the commission in any order and of the municipal officers acting thereunder shall not extend beyond a point one hundred and fifty feet on either side of any such crossing measured along the highway or other way or beyond a point three hundred feet on either side of any such crossing measured along the railroad right of way, the purpose herein being to enable a traveler on any such way, when such traveler is one hundred and fifty feet or less distant from any such crossing, to have a fair view of an approaching train, engine, or car from one or more angles continuously from the time such train, engine, or car is three hundred feet from such crossing until it has passed over the same.

Sec. 91. Expense of removal to be paid by municipality; partial reimbursement by state. 1917, c. 145, § 4. 1921, c. 17, § 2. Within such time as said commission by order directs, such municipal officers shall cause such bushes, trees, fences, sign-boards, or encroachments to be trimmed, cut down, or removed, and from time to time as may be ordered by said commission to keep the same trimmed, cut down, or removed, and the expense thereof shall in the first instance be paid by the city, town, or plantation wherein the labor is performed, but upon the filing with the governor and council of proper proof of such payment, one-half of any such amount shall be repaid by the state to such city, town, or plantation, the same to be paid out of any funds not otherwise appropriated.

Sec. 92. Damages; commission to determine amount; municipality and state to share in payment. 1917, c. 145, § 5. If any person claims damages on account of any act done under the two preceding sections, he may within two years after the doing of any such act, petition the public utilities commission to assess his damages and the said commission, after reasonable notice to the petitioner and to the interested city, town, or plantation, and after hearing, shall award such sum as seems proper as damages to be paid by the city, town or plantation wherein the property is located. Upon proper proof of any such payment, the governor and council shall cause one-half thereof to be paid by the state to such city, town, or plantation.

Sec. 93. Buildings not to be removed without consent of owner. 1917, c. 145, § 6. Nothing in the four preceding sections contained shall authorize the removal of any building without the consent of the owner thereof.

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Sec. 94. Interference in performance of duty; penalty and jurisdiction. 1917, c. 145, § 8. Obstruction or interference with the performance of any act authorized or required hereunder is hereby declared to be a misdemeanor, and any person convicted of the same shall be fined not more than twenty dollars or imprisoned not more than thirty days. Jurisdiction over each such offense is hereby conferred on each municipal court and trial justice in the state.

Sec. 95. Orders of commission, enforced by S. J. Court. 1917, c. 145, § 10. All orders of the commission made under this chapter may be enforced in the manner provided in chapter sixty-one. The supreme judicial court is hereby given jurisdiction at law and in equity to enforce compliance of any order issued by the public utilities commission under this chapter. It shall be the duty of said commission to see that the rights of the public under this chapter are fully protected.

Sec. 96. Applicable only to steam railroads. 1917, c. 145, § 11. Except where otherwise herein expressly specified sections eighty-eight to ninety-eight shall apply only to railroads operated in whole or principally by steam power.

Sec. 97. Railroad company may enter upon private property. 1917, c. 145, § 12. 1921, c. 17, § 3. For the purpose of creating and maintaining the fair view mentioned in the preceding sections, or for the purpose of improving the view at one or more angles, any steam railroad company subject to the provisions hereof may enter upon private property and remove any embankment or other obstruction except a dwelling house. The owner of such property is entitled to damages, and may have the same estimated and paid in manner provided in chapter sixty-two, and there shall be the same right of appeal as therein given.

Sec. 98. Certain railroads excepted. 1917, c. 145, § 13. 1921, c. 17, § 4. The provisions of section eighty-eight shall not apply to railroads of less than standard gauge, nor to the Knox Railroad Company, formerly called Georges Valley Railroad Company.

Railroad Equipment.

Sec. 99. Contract for conditional sale of railroad equipment. R. S. c. 57, § 88. In any contract for the sale of equipment or rolling-stock for a railroad of any kind, it shall be lawful to agree that the title to the property sold or contracted to be sold, although possession thereof may be delivered immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money. And in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract, may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full, and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by such lessee or bailee; provided, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent bona fide purchaser for value and without notice, unless:

I. The same shall be evidenced by an instrument executed by the parties and duly acknowledged by the vendee or lessee or bailee as the case may be, or duly proved, before some person authorized by law to take acknowledgment of deeds, and in the same manner as deeds are acknowledged or proved.

II. Such instrument shall be filed for record in the office of the secretary of state of this state.

III. Each locomotive engine, or car so sold, leased, or hired, or contracted to be sold, leased, or hired as aforesaid, shall have the name of the vendor, lessor or bailor plainly marked on each side thereof, followed by the word "owner" or "lessor" or "bailor," as the case may be.

Sec. 100. Contracts and declarations shall be recorded by secretary of state. R. S. c. 57, § 89. The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose. And on payment in full of the purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor, or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument, to be acknowledged by the vendor, lessor, or bailor, or his or its assignee, and recorded as aforesaid.

Sec. 101. Provisions of c. 114, Secs. 8, and c. 96, shall not apply to such contracts; property subject to trustee process. R. S. c. 57, § 90. The provisions of section eight of chapter one hundred twenty-two shall not apply to any contract specified in section ninety-nine, nor shall any contract specified in said section be construed a mortgage or an instrument under chapter one hundred four, requiring foreclosure and entitling the holder of property thereunder to an equity of redemption, but any personal property held under any contract specified in section ninety-nine shall be subject to trustee process as provided in section fifty of chapter ninety-nine.

Sec. 102. Contracts made before April 29, 1893, not affected. R. S. c. 57, § 91. The three preceding sections shall not be held to invalidate or affect in any way, any contract of the kind referred to in section ninety-nine, made before the twenty-ninth day of April, in the year eighteen hundred and ninety-three, and any such contract theretofore made may, upon compliance with the provisions hereof, be recorded as herein provided.

Note. Provisions for foreclosure of railroad mortgages extended to certain mortgages given by other corporations, c. 55, § 72.

Proceedings for sale on execution of franchises of railroads, or their right to redeem mortgages, c. 89, § 44; c. 97, § 21.

Procedure for selling unclaimed baggage or other merchandise, c. 66, §§ 18, 19; perishable merchandise, § 20; livestock, § 21; transportation of property, title to which is in dispute, may be delayed, § 23.

Erection of electrical line along a railroad, c. 67, § 36.

Vacancies in trustees under trust deed or mortgage, how filled, c. 81, §§ 17-19.

Penalty for destruction of human life by obstruction of railroad tracks, c. 129, § 5; for breaking and entering railroad-car, with intent to commit felony, c. 130, § 7; for larceny from railroad-car, c. 131, § 2; for railroad strikes, c. 134, §§ 11, 12, 13; for gambling in railroad-cars, c. 136, § 5; for malicious mischief to railroad-cars, c. 139, § 7; to transit points or bench-marks of railroad location or survey, c. 139, § 9; for removal of packing from journal-boxes, c. 139, § 8; to milestone or guide-board on railroad, c. 139, § 26; for wanton injury to baggage, c. 129, § 35.

Regulation of transportation of cattle and other animals, c. 126, §§ 57-62.

CHAPTER 64.

Street Railroads.

Sec. 1. General Powers. R. S. c. 58, § 1. All street railroad corporations shall, in addition to their chartered rights, have all the rights and powers conferred from time to time by general laws upon street railroad corporations, and be subject to the conditions, restrictions, and limitations thereby imposed.

113 Me. 110.

Sec. 2. Organization of street railroad companies. R. S. c. 58, § 2. Any number of persons not less than five, a majority of whom shall be citizens of this state, may form a company for the purpose of constructing, maintaining, and operating by electricity, compressed air, or animal power, a street railroad for public use, for street traffic for the conveyance of persons and property, 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, cities, and towns from which, in which and to which the road is to be constructed, maintained, and operated, the length of such road, as nearly as may be, the amount of capital stock which shall not be less than four thousand dollars for every mile of road proposed to be constructed, the number of shares of which said stock shall consist, and the names and places of residence of at least three persons, a majority of whom shall be citizens of this state who shall act as directors of the proposed company and manage its affairs until others are chosen in their places. Each subscriber shall sign his name, residence, and number of shares which he agreed to take in said company.

96 Me. 113; *113 Me. 110.

Sec. 3. Requirements as to stock before articles are filed and recorded. R. S. c. 58, § 3. Said articles of association shall not be filed and recorded in the manner provided in the following section, until the capital stock named in the preceding section 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, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named therein, that the amount of stock required by the preceding section, has been in good faith subscribed, and five per cent paid thereon in cash as aforesaid, and that it is intended in good faith to construct, maintain, and operate the road mentioned in such articles, which affidavit shall be recorded therewith as aforesaid.

*96 Me. 113.

Sec. 4. Approval of articles of association; issue of certificate by secretary of state; certificate conclusive as to organization of corporation. R. S. c. 58, § 4. Whenever it is shown to the satisfaction of the public utilities commission that all the provisions of the two preceding sections have been complied with, they shall indorse upon said articles a certificate of such facts and their approval in writing. The secretary of state shall, upon payment of the fees prescribed by section six of chapter fifty-five cause the same with the indorsement thereon to be recorded, and shall issue a certificate in the following form:

"STATE OF MAINE.

Be it known that whereas" (here the names of the subscribers to the articles of association should be inserted) "have associated themselves together with the intention of forming a corporation under the name of" (here insert the name of the corporation) "for the purpose of building and operating a street railroad in" (here insert a description of the road contained in the articles of association) "and have complied with the statutes of the state in such cases made and provided: Now, therefore, I," (here insert the name of the secretary) "Secretary of the State of Maine, 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 thereunto subscribed and the seal of the State of Maine hereunto affixed this day of A. D. 19 ." (day, month and year inserted.)

The secretary of state shall sign the same and cause the seal of the state to be affixed, and such certificate shall be conclusive evidence of the organization and establishment of such corporation at the date thereof. The secretary of state shall also cause a record of such certificate to be made, and a certified copy of such record may with like effect as the original certificate be given in evidence to prove the existence of such a corporation.

96 Me. 114.

Sec. 5. Meeting for organization. R. S. c. 58, § 5. The first meeting for the purpose of organizing such corporation shall be called by a notice, signed by three of the subscribers to such articles of association, stating the time, place, and purpose of such meeting, a copy of which notice shall, seven days at least before the day appointed therefor, be given to each subscriber, or left at his usual place of business or residence, or deposited in the post-office, post-paid, addressed to him at his usual place of business or residence; and whoever gives such notice shall make affidavit of his doings which shall be recorded in the records of the company.

Sec. 6. Increase of capital stock. R. S. c. 58, § 6. If the capital stock of any company formed under the foregoing provisions is found to be insufficient for constructing and equipping its road, such company may increase the same from time to time, to any amount for the purpose aforesaid. Such increase must be sanctioned by a vote, in person or by proxy, of two-thirds in amount of all the stockholders at a meeting thereof called by the directors for that purpose.

Sec. 7. Petition for approval of location; proceedings thereon. R. S. c. 58, § 7. Every corporation organized under the foregoing provisions before commencing the construction of its road shall present to the public utilities commission a petition for approval of location, defining its courses, distances, and boundaries, accompanied with a map of the proposed route on an appropriate scale with the written approval of the proposed route and location as to streets, roads, or ways, of the municipal officers of the cities and towns in which said railroad is to be constructed in whole or in part and with a report and estimate prepared by a skilful engineer. Said commission shall upon presentation of such petition appoint a day for a hearing thereon and the petitioner shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. At such hearing any party interested may appear in person or by counsel. The

public utilities commission after hearing the petition shall, if they approve such location, subject to the provisions of section fifteen, then determine whether public convenience requires the construction of such road and make a certificate of such determination in writing, which certificate shall be filed with their clerk within thirty days after such hearing. Within five days after the filing of such certificate with him, said clerk shall notify all who have become parties of record as aforesaid, or their counsel, of such determination and decision by sending to each party or their counsel, by mail, a certified copy of such certificate so filed with him. If the public utilities commission approves such location and finds that public convenience requires the construction of said road the corporation may proceed with the construction of said road, provided, that it first files with the clerk of county commissioners for the county in which said street railroad is to be located a copy of the location and plan aforesaid and another copy of the same with the public utilities commission. Any extension of, addition to, or variation from the location of any street railroad, organized under the provisions hereof, may be made in accordance with and subject to the foregoing provisions, provided, that no railroad shall be located across tide-waters where vessels can navigate unless special permission of the legislature is obtained; no such permission shall be necessary where such railroad is desired, to cross public bridges already erected, but the authority to determine whether such crossing shall be permitted shall rest with the municipal officers of the cities or towns liable for the repair of such bridges respectively, who may impose such conditions and terms upon railroads desiring to cross the same as to them may seem expedient. In case any county is liable for the repair of a bridge, the county commissioners of such county shall have authority in the premises.

*94 Me. 568; 95 Me. 362; *96 Me. 112, 113; 109 Me. 355; *113 Me. 109; see c. 62, § 77.

Sec. 8. Application to municipal officers and proceedings thereon; appeal and proceedings thereon. R. S. c. 58, § 8. Whenever any street railroad corporation is required to obtain the written approval of its proposed route and location, or of any extension of the same, or of any additional locations for turnouts or spurs mentioned in section twelve, as to streets, roads, or ways, of the municipal officers of the cities and towns in which said railroad is to be constructed in whole or in part, it shall make an application in writing and such municipal officers shall order public hearing thereon, giving such notice thereof as they deem proper but in no case less than seven days. Such notice shall contain a copy of such written application and warn the legal voters of such city or town to be present and be heard thereon. After hearing and within fourteen days after the filing of such application, such municipal officers shall file their decision thereon with the clerk of the city or town who shall make due record thereof. Any contract entered into between any such street railroad corporation and such municipal officers as to the terms, conditions, and obligations under which such location is approved, so far as consistent with the powers and duties of the public utilities commission under the general laws of the state, shall be valid and binding. If the municipal officers upon such written application therefor neglect to approve a route and location as to streets, roads, or ways, or if they refuse to approve such a route and location, or if such route and location is not accepted by the corporation, in either case said corporation may within fourteen days after the expiration of the time for filing such decision, or within fourteen days after the filing thereof, appeal to the public utilities commission. A failure to appeal shall not bar the corporation from making a new application to municipal officers. Any person or corporation

claiming to be interested may appeal to the public utilities commission within said fourteen days from any decision made by the municipal officers. In all such appeals the appellant shall file his appeal in writing in the office of the public utilities commission who shall appoint a day for a hearing thereon, and the appellant shall give such notice thereof as said commission deems reasonable and proper in order that all persons interested may have an opportunity to appear and object thereto. After hearing, the said commission shall make decision thereon and cause record thereof to be made in their office in lieu of the approval of the municipal officers. This section shall not apply to any location which has been approved by the proper municipal officers, before the twenty-sixth day of March, one thousand nine hundred and seven.

Sec. 9. Amendment of articles of association, as to length of road. R. S. c. 58, § 9. If a street railroad corporation organized under this chapter, in preparing its location under section seven, finds that the length of road intended to be constructed by it, exceeds the length of road as set forth in its articles of association, it may by a petition signed by all of its directors, addressed to the public utilities commission, and upon such notice as said commission may deem necessary, amend said articles of association by providing for such additional length of road, and by increasing the amount of its capital stock to the amount required by section two of this chapter. Such increase in capital stock shall be subscribed for in good faith by responsible parties and five per cent paid thereon in cash to the directors. An additional affidavit shall be indorsed thereon or annexed thereto, made by a majority of the directors, that said additional capital stock has been in good faith subscribed and five per cent paid thereon in cash as aforesaid, and that said corporation intends in good faith, to construct, maintain, and operate the additional length of road provided for by said amendment. Said amendment shall be subject to approval by the public utilities commission, as provided by section four in reference to the original articles of association; provided, however, that no amendment shall be necessary so long as the length of approved location does not exceed the length of road as specified in the articles of association.

Sec. 10. Amendment recorded by secretary of state. R. S. c. 58, § 10. After said amendment has been approved and recorded by the public utilities commission, it shall be recorded in the office of the secretary of state and a certificate of said amendment shall be issued by the secretary of state to said corporation upon payment of such additional fee, if any, as would have been required if the capital stock as provided by the articles of association had conformed to the capital stock as amended.

Sec. 11. Articles of association, location or any petition may be amended as public utilities commission deems necessary. R. S. c. 58, § 11. Articles of association filed under section four may be amended at any time upon petition therefor signed by all of the incorporators after such notice thereof as the public utilities commission may deem necessary. No proceedings shall be dismissed because of the death of any person named as a director or incorporator before final decree of approval of location, but the survivors may elect a new director or admit another associate, who shall sign the original articles of association and the subscription of stock then on file in the office of said commission. Any location may be amended at any time before final approval thereof, after notice and hearing thereon by the public utilities commission, by filing a consent to said amendment signed by the municipal officers of the town interested. Amendments to petitions relating to street railroad corporations filed before the public utilities commission may be made at any time before final decree with or without notice, as the commission may decide public interest may require.

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Sec. 12. Municipal officers may approve additional locations for turnouts. R. S. c. 58, § 12. When the location of any street railroad shall have been approved as provided by law, the municipal officers may approve such additional locations for turnouts and spurs to property used or to be used by said corporation in the operation of its road as shall be necessary therefor, and such additional locations shall not be deemed to be extensions, additions or variations within the meaning of this chapter.

113 Me. 108.

Sec. 13. Construction of road to begin within three years. R. S. c. 58, § 13. If any corporation formed under the foregoing sections does 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 its capital, its corporate existence and power shall cease, unless the same shall be extended as provided in the following section.

See c. 1, § 6, ¶ xxix.

Sec. 14. Public utilities commission may extend or revive charter. R. S. c. 58, § 14. 1917, c. 70. The public utilities commission may extend the corporate existence and powers of such corporation for successive periods of not exceeding three years each, or may revive such corporate existence and powers for a like period after the same shall have ceased as provided in the preceding section. Said commission, if they deem it expedient, and if the same be prayed for, may include in such extension any rights or powers granted to such corporation by special law, and in such case all rights and powers of such corporation, whether existing under this chapter or under any special law, shall continue in full force for the period not exceeding three years determined by the commission; provided, however, that before decreeing such extension or revival, notice shall be given and hearing had as provided by section seven.

Sec. 15. Corporations may take land outside of streets and ways; not to exceed four rods in width; estimation of damages. R. S. c. 58, § 15. Such corporation may purchase or take and hold by its location aforesaid as for public uses, land outside of the limits of streets, roads, or ways, and all materials in and upon it for the location, construction, and convenient use of its road, whenever for any reason it appears that the public service of said corporation would be thereby better performed, but the land so taken shall not exceed four rods in width unless necessary for excavation, embankments or materials. No location outside of the limits of any street, road, or way shall be approved by said commission unless it appears that the public service of said corporation would be thereby better performed. All damages for land and materials so taken shall be determined and paid in the manner and under proceedings as provided in case of lands taken for steam railroads.

See c. 62, § 31.

Sec. 16. Profiles of proposed locations shall be filed. R. S. c. 58, § 16. In all proceedings before the public utilities commission by street railroad corporations, involving the approval of locations outside of the limits of streets, roads, or ways, such corporations shall file profiles of the proposed location outside of the limits of streets, roads, or ways, and such profiles of the streets, roads, or ways, as may be material to the inquiry into the approval of the proposed location. Such profiles shall be on the relative scales of profile paper in common use.

Sec. 17. Corporation may acquire land for gravel-pits; application to public utilities commission and proceedings thereon. R. S. c. 58, § 17. Any street railroad corporation may purchase or take and hold, as for public uses, land for borrow and gravel-pits, spur-tracks thereto, side-tracks, turnouts, stations,

car barns, pole lines, wires, installing and maintaining power-plants, double-tracking its road, improving the alignment thereof, changing or avoiding grades, or for avoiding grade crossings of any railroad; but if the owner of said land does not consent thereto, or if the parties do not agree as to the necessity therefor or the area necessary to be taken, the corporation may make written application to the public utilities commission, describing the estate and naming the persons supposed to be interested; the commission shall thereupon appoint a time for a meeting near the premises, and require notices to be given to the persons so interested as they may direct fourteen days at last 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 make a certificate containing a definite description thereof and furnish the corporation with a true copy thereof attested by the clerk of the board; and when such copy of certificate is filed with the clerk of courts in the county where the land lies, the land 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 commission shall, in addition to the notice to the tenant for life, give notice by publication to all others interested in such matter as they deem proper.

Sec. 18. No entry, except for survey, before filing of certificate; damages. R. S. c. 58, § 18. The land taken under the preceding section shall not be entered upon except to make surveys before the certificate aforesaid has been filed with the clerk of courts. All damages shall be determined and paid as provided by chapter sixty-two, in the case of lands taken for steam railroads, and section thirty-four of said chapter shall be applicable thereto. No meeting-house, dwelling-house, public or private burying-grounds shall be so taken without consent of the owners. Nothing herein contained shall authorize the taking of lands already devoted to railroad uses except in cases where the public utilities commission determines that such lands may be crossed in such manner as to avoid grade crossings with railroads.

Sec. 19. Location may be canceled by municipal officers upon petition of directors. R. S. c. 58, § 19. Whenever a location for a street railroad upon any street, road, or way has been approved under the general law or any special act, with no actual occupation thereof by the rails of such company, such location in whole or in part may be canceled at any time by the municipal officers of the town where so located upon the petition of the directors of the corporation entitled to the same.

Sec. 20. Location may be changed under direction of public utilities commission. R. S. c. 58, § 20. Any street railroad corporation, under the direction of the public utilities commission, may make any changes in the location of its road which it deems necessary or expedient and such changes shall be recorded where the original location was required by law to be recorded.

101 Me. 175.

Sec. 21. Location of tracks in street may be changed by municipal officers upon petition. R. S. c. 58, § 21. Upon a petition of ten or more citizens and taxpayers of any city or town, setting forth that the tracks of any street railroad company operated in said city or town, are located inconveniently for the public, the municipal officers may, after giving reasonable notice to all parties interested, hold a public hearing on said petition, and may, if in their judgment public convenience, or street improvement, requires it, change said location

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within the limits of any street, but not to another street, and order the company operating the railroad to make the alterations, and may make such decree as to the expense of the same, as between the company and the municipality, as they may deem equitable, subject to appeal as hereinafter provided, and said alterations shall be made in accordance with the directions of the municipal officers.

Sec. 22. Appeals. R. S. c. 58, § 22. The petitioners, or any street railroad company affected by the decision of the municipal officers, may appeal to the public utilities commission, who shall upon notice hear the parties, and finally determine the questions raised by said appeal.

Sec. 23. Street railroads may extend lines. R. S. c. 58, § 23. Any street railroad corporation in this state may be authorized to extend, construct, maintain, and operate its road to, into and through cities and towns other than and in addition to those named in its charter or articles of association, and to other points or places within the cities or towns where built or located, on application to the public utilities commission, and by compliance with and subject to the provisions of section seven of this chapter; the right of any connecting street railroad company specially conferred upon it by its charter shall be preserved unimpaired.

Sec. 24. Certain provisions relating to steam railroads made applicable to street railroads. R. S. 58, § 24. 1917, c. 198. So far as applicable the provisions of sections twenty-nine to forty-seven, both inclusive, sections forty-eight, fifty-one, fifty-two, fifty-three and fifty-four of chapter sixty-two, and sections eight, nine, ten, twenty-two to twenty-five, both inclusive, twenty-eight, twenty-nine, fifty-four, sixty-four and sixty-five of chapter sixty-three, and sections eighteen and nineteen of chapter sixty-six, shall apply to street railroads.

Sec. 25. Shall be construed in manner prescribed by municipal officers. R. S. c. 58, § 25. Said railroads shall be constructed and maintained in such form and manner, and with such rails and upon such grade as the municipal officers of the cities and towns where the same are located may direct, and whenever in the judgment of such corporation it shall be necessary to alter the grade of any city, town, or county road, said alterations shall be made at the sole expense of said corporation with the assent and in accordance with the directions of said municipal officers. The said corporation may at any time appeal from the decision of such municipal officers determining the form and manner of the construction and maintenance of its railroad and the kind of rail to be used, to the public utilities commission who shall upon notice hear the parties and finally determine the questions raised by said appeal.

*105 Me. 305.

Sec. 26. Certain provisions relating to crossings of streets and ways made applicable to corporations organized under this chapter. R. S. c. 58, § 26. Sections thirty to thirty-three, both inclusive, of chapter twenty-seven shall apply to the location of highways and town ways, across, over or under the private right of way, or land used for station purposes, of corporations organized under this chapter; and sections sixty-three to seventy-four, both inclusive, of chapter sixty-two shall apply to crossings of streets and ways occasioned by the construction of the railroads of such corporations, outside the limits of streets, roads, and ways.

Sec. 27. Railroad shall not be operated until commission grants certificate of safety; penalty. R. S. c. 58, § 27. No street railroad shall be operated for street traffic until the public utilities commission has made an inspection of such railroad and granted a certificate of its safety for public travel. Any person

or corporation violating the provisions of this section, forfeits to the state one hundred dollars for each offense, to be recovered in an action on the case, or by complaint and indictment, and the attorney-general shall institute proceedings to recover the same.

101 Me. 175.

Sec. 28. But one railroad shall occupy streets at same time. R. S. c. 58, § 28. No corporation or person shall be permitted to construct or maintain any railroad for similar purposes over the streets, roads, or ways that may be lawfully occupied by a street railroad in any city or town, but any person or corporation lawfully operating any street railroad to any point to which the tracks of any other street railroad extend, may enter upon, connect with, and use the same, on such terms and in such manner as may be agreed upon between the parties or of they shall not agree, to be determined by the public utilities commission upon application, notice, and hearing therefor.

Sec. 29. Corporation may erect all necessary power stations, etc. R. S. c. 58, § 29. Any corporation organized under the provisions of section two may erect and maintain all necessary or convenient power-stations, car houses, and lines of poles, wires, appliances, and appurtenances, subject to the general laws of the state regulating the erection of posts and lines, for the purposes of electricity.

See c. 67, §§ 26-37.

Sec. 30. Any street railroad company may maintain hotels and places of amusement, and may hold shares of corporations. R. S. c. 58, § 30. Any street railroad corporation of this state may erect and maintain hotels, cottages, places of amusement, and pleasure grounds along its route, and for that purpose may purchase and hold real estate and personal property necessary or convenient therefor, provided that the right of taking lands or other property shall not extend to property to be used for such purposes, and such street railroad corporations may purchase and hold shares of the capital stock of any other corporation engaged in the business of owning, leasing, maintaining, or operating such hotels, cottages, places of amusement, and pleasure grounds.

Sec. 31. Municipal officers may make regulations as to use of streets; appeal. R. S. c. 58, § 31. 1919, c. 197. The municipal officers of any city or town may make at all times, such regulations and requirements as to the mode of use of tracks of any street railroad, the paving, resurfacing, and reconstruction of the streets or roads upon which said tracks may be located, the sprinkling and watering in cities by any street railroad of the space between and one foot beyond the outer rails of said tracks for the purpose of laying the dust, the rate of speed, and the removal and disposal of snow and ice from the streets, roads, and ways, by any street railroad corporation, as the public safety and convenience may require. Any street railroad corporation may appeal from the decision of such municipal officers making any regulation or requirement under this section to the public utilities commission, who shall upon notice hear the parties and finally determine the questions raised by said appeal and apportion the expenses thereof between said parties as they may deem just and equitable.

Sec. 32. Corporations shall keep streets in repair. R. S. c. 58, § 32. Such corporations shall keep and maintain in repair such portions of the streets, roads, or ways, as shall be by them occupied, and shall make all other repairs therein, rendered necessary by such occupation. If not repaired upon reasonable notice, such repairs may be made by said towns at the expense of said corporation.

Sec. 33. Liable for all damages. R. S. c. 58, § 33. All street railroad corporations shall be liable for any loss or damage which any person may sustain, by reason of any negligence or misconduct of any such corporation, its agents or

servants, or by reason of any obstructions, or defects in any street or road of any city or town, caused by the negligence of such corporation, its agents or servants, and shall hold such city or town harmless from any suits for such loss or damages; provided, such company shall have notice of any such suit, and shall be allowed to defend the same.

103 Me. 223.

Sec. 34. Penalty for obstructing street railroad corporations. R. S. c. 58, § 34. Whoever wilfully and maliciously obstructs any street railroad corporation in the use of its roads, tracks, or property, or the passing of cars of said corporation thereon, and whoever aids or abets therein, shall be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding sixty days.

Sec. 35. Penalty for spitting on floor of cars; copy of this section to be posted. R. S. c. 58, § 35. Whoever spits upon the floor of any street-car shall be fined not less than two, nor more than ten dollars to be recovered on complaint. The officers of all street railroad companies shall cause a copy of this section to be posted in their several street-cars.

Sec. 36. Municipal officers may authorize discontinuance of cars in winter; appeal. R. S. c. 58, § 36. Upon a written application by any street railroad corporation, to the municipal officers of any city or town, and hearing thereon, the municipal officers may authorize said corporation to discontinue the running of its cars, during such portion of the winter months, and upon such terms and conditions as they may determine; said corporation may appeal from such decision to the public utilities commission, who shall after reasonable notice and hearing, make such a determination thereon as shall be reasonable and proper, and their decision shall be final.

Sec. 37. Platforms to be enclosed. R. S. c. 58, § 37. All street-cars in regular use for the transportation of passengers in December, January, February and March in each year, except as hereinafter provided shall have their platforms enclosed in such manner as to protect the motormen, conductors, or other employees who operate such cars from exposure to wind and weather, and as the public utilities commission may approve. This section shall apply to and include all regular street-cars which are operated by steam, electricity, or other motive power, which, while in motion, require the constant care or service of an employee upon the platforms of the car or upon one of them; but shall not apply to special cars or cars used for temporary service in an emergency.

Sec. 38. Penalty for violation. R. S. c. 58, § 38. A street railroad company which fails or neglects to comply with the provisions of the preceding section shall be punished by a fine of not more than one hundred dollars for each day during which such neglect continues, and a superintendent or manager of such street railroad who causes or permits such violation shall be jointly and severally liable with said company to said fine.

Sec. 39. Street-cars shall have fenders after November 1, 1915; term fender defined. R. S. c. 58, § 39. No person, company, corporation, or association, owning or operating any railroad operated or controlled by electricity, and doing business in the state, shall run any railroad or street-car over, upon, or along any street or highway within the state, unless such car shall be equipped with a safety device commonly known and called a fender. The term fender as herein before used shall be deemed to mean an attachment devised to prevent accidents, and shall be of such form and be attached to the car or cars in a manner approved by the public utilities commission.

Sec. 40. Penalty. R. S. c. 58, § 40. Any person, company, corporation, or

association failing to equip cars operated as aforesaid shall be punished by a fine not exceeding ten dollars a day for each and every car in service without said equipment.

Provisions for weekly payment of wages apply to street railroads, c. 53, § 39.
 Crossings of other railroads regulated, c. 62, §§ 75, 76.
 Construction and maintenance of bridges over which railroad passes, c. 62, §§ 77, 78.
 Evasion of fare, c. 63, § 8.
 Disorderly conduct or intoxication on street-car, c. 63, §§ 70, 71.
 Intoxication of conductor or motorman, penalty; c. 63, § 64.
 Conditional sale of railroad equipment, c. 63, §§ 88, 91.
 Fraudulent issue and use of transfers prohibited, c. 139, § 11.
 Injuries to fixtures of electric power line, c. 139, §§ 10-12.

CHAPTER 65.

Motor Vehicles Carrying Passengers for Hire.

Sec. 1. Motor vehicles carrying passengers for hire over regular routes under jurisdiction of public utilities commission. 1921, c. 184, § 1. 1923, c. 211, § 1. The public utilities commission shall have jurisdiction over every person, firm, or corporation operating any motor vehicle upon any public street or highway for the carrying of passengers for hire, provided the same are operated over regular routes between points in this state. The words "regular routes" as used in this chapter mean those routes over which any person, firm, or corporation is usually or ordinarily operating any motor vehicle, even though there may be departures from said routes, whether such departure be periodic or irregular. Whether or not any motor vehicle is being operated over regular routes within the meaning of this chapter shall be a question of fact, and the finding of the public utilities commission thereon shall be final and shall not be subject to review, except that questions of law may be raised in the manner provided in sections sixty-four and sixty-five of chapter sixty-one.

Sec. 2. Commission to make rules and regulations governing use of said motor vehicles. 1921, c. 184, § 2. Said commission is hereby authorized to make from time to time rules and regulations governing the operation of said motor vehicles, which shall include provisions concerning the route of operation, schedule to be operated and maintained, rates of fare to be charged for the carriage of passengers, the safeguarding of passengers and other persons using the streets and highways, and such other reasonable regulations as may be deemed necessary for the safety or convenience of the public.

Sec. 3. Existing statutes relative to use and operation of motor vehicles not affected. 1921, c. 184, § 3. Nothing herein contained shall exempt any person, firm, or corporation owning or operating said motor vehicle or vehicles from complying with existing statutes relating to the ownership, registration, and operation of motor vehicles in this state as defined in chapter twenty-nine.

Sec. 4. Such motor vehicles not to be operated without certificate from commission. 1921, c. 184, § 4. 1923, c. 211, § 2. No person, firm, or corporation shall operate such motor vehicle or vehicles on any street or highway in any city or town of this state, without obtaining from the public utilities commission, a certificate permitting such operation.

125 Me. 63.

Sec. 5. Commission may revoke certificates. 1923, c. 211, § 3. The public utilities commission shall have the right to revoke a certificate of any person, firm, or corporation who shall fail to comply with the rules and regulations as provided in section two.

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Sec. 6. Record of mileage, trips, passengers carried, receipts, etc., to be kept and report filed with public utilities commission. 1925, c. 167. Every person, firm, or corporation operating any motor vehicle or trailer under the provisions of this chapter shall keep an accurate record of the mileage, of the number of trips made, number of passengers carried, of the receipts from operation, operating and other expenses, etc., and shall file with the commission at such times and in such form as it may prescribe, reports duly verified, covering the period fixed by the commission. The commission shall prescribe the character of the information to be embodied in such reports and furnish a blank form therefor.

Sec. 7. Motor vehicles and trailers subject to supervision of commission not to be registered or certificate issued until owner has procured insurance or bond against personal injury or property damage. 1925, c. 167. The secretary of state shall not register any motor vehicle or trailer subject to the supervision and control of the public utilities commission, and the public utilities commission shall not issue a certificate permitting the operation of such motor vehicle or trailer, and no person or persons shall operate or cause to be operated upon any public highway any such motor vehicle or trailer until the owner or owners thereof shall have procured insurance or a bond having a surety company authorized to transact business in this state as surety thereon, which insurance or surety bond shall indemnify the insured against any legal liability for personal injury, the death of any person or property damage, which injury, death, or damage may result from or have been caused by the use or operation of the motor vehicle or trailer described in the contract of insurance or such bond.

Sec. 8. Amount of insurance or bond, how determined; minimum and maximum amounts provided for. 1925, c. 167. The amount of insurance or of such bond which each motor vehicle or trailer owner shall carry as insurance or indemnity against claims for personal injury or death shall be determined upon the basis of five hundred dollars for each passenger which each motor vehicle or trailer described in the contract of insurance or such bond, as the case may be, may carry under the provisions of the general statutes; provided no such policy or bond shall indemnify the insured in an amount less than five thousand dollars in the event the carrying capacity of such motor vehicle or trailer as prescribed by law shall be sixteen or less, provided the maximum indemnity of such policy or bond need not be more than ten thousand dollars and provided that in the event such carrying capacity shall exceed sixteen passengers, the maximum indemnity need not exceed twenty thousand dollars, and such policy or such bond shall indemnify the assured against legal liability resulting from property damage to the amount of one thousand dollars.

Sec. 9. Company to file a certificate with secretary of state and public utilities commission; insurance or bond not to be canceled without notice. 1925, c. 167. Any company issuing any such insurance or indemnity bond shall file with the secretary of state and public utilities commission a certificate in such form as said secretary shall prescribe, and no such insurance or bond shall lapse, expire or be canceled while the registration is in force until at least ten days' written notice shall have been given the secretary of state and public utilities commission of an intention to cancel, and until said secretary shall have accepted other insurance or indemnity bond and shall have notified the person or company seeking to cancel such insurance or bond that such other insurance or bond has been accepted or that the public service registration of the motor vehicle or trailer described in such insurance policy or bond has been canceled and the number plates of such motor vehicle or trailer described in such insurance or bond have been returned to the secretary of state.

Sec. 10. Notice of injury or damage to be given company. 1925, c. 167. Any person sustaining bodily injuries, or injury to or destruction of his property, and the personal representatives of any person sustaining death by reason of an accident arising out of the ownership, operation, maintenance, or use upon the ways of the state of any motor vehicle or trailer shall within thirty days thereafter give to the company executing any motor vehicle liability bond as surety for the owner or the person responsible for the operation of such motor vehicle or trailer involved in such accident, or to the liability insurance company issuing the motor vehicle liability policy covering such owner or other person, a notice in writing of the time, place, and cause of the said injury, death or damage. If the person sustaining injury or damage or the personal representative of such person shall be unable to give such notice by reason of lack of knowledge of either the person, or the registered number of the motor vehicle or trailer causing such injury or damage, notice shall be given as aforesaid within thirty days of the time of acquiring such knowledge.

Sec. 11. Limitation of action. 1925, c. 167. Actions of tort for injuries to the person or for death and for injuries to or destruction of property caused by the ownership, operation, maintenance or use on the ways of the state of motor vehicles or trailers [subject to the supervision and control of the public utilities commission,] shall be commenced only within one year next after the cause of action occurs.

Note. It is to be supposed that this limitation applies only to vehicles described in this chapter.

See c. 94, § 90.

Sec. 12. Action in name of state may be brought against surety company in case judgment is not satisfied; limitation. 1925, c. 167. If a judgment rendered against the principal of a motor vehicle liability bond or against the person responsible for the operation of the principal's motor vehicle or trailer is not satisfied within thirty days after its rendition, the judgment creditor may for his use and benefit and at his sole expense bring an action in the name of the state against the surety company executing the bond, but no action shall be brought later than four months from the date of the original execution.

Sec. 13. Insurance and surety companies prohibited from offering inducements not specified in policy or bond; rebates prohibited. 1925, c. 167. No insurance or surety company, officer, agent, or attorney thereof, and no insurance broker shall pay or allow, or offer to pay or allow any valuable consideration or inducement not specified in the policy or contract, in connection with placing or negotiating any motor liability bond or any motor liability policy, both as defined in section seven. No such insurance or surety company, officer, agent, or broker shall at any time pay or allow or offer to pay or allow any rebate of any premium paid or payable on any [such] policy of insurance or bond.

Sec. 14. Acceptance of rebates prohibited; no person to be excused from testifying on ground of self-incriminating evidence; immunity from prosecution. 1925, c. 167. No person shall receive or accept from any insurance or surety company, or officer or agent thereof or any other person, any such rebate or premium paid or payable on any [such] motor vehicle liability bond or any [such] motor vehicle liability policy, at a rate less than that specified in the policy or contract. No person shall be excused from testifying, or from producing any books, papers, contracts, agreements, or documents, at the trial of any other person charged with violating any provision of this and the preceding section on the ground that such testimony or evidence may tend to incriminate himself. But no person shall be prosecuted for any act concerning which he

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shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 15. Penalty for violation of provisions of chapter. 1925, c. 167. Any person who shall violate any provision of this chapter shall be fined not less than ten dollars nor more than five hundred dollars or imprisoned not more than one year, or may be both fined and imprisoned.

CHAPTER 66.

Corporations for Navigation by Steam. Unclaimed Baggage and Merchandise.

Sections	1- 3	Corporations for Navigation by Steam.
Sections	4-17	Provisions for Safety on Inland Steamers.
Sections	18-22	Unclaimed Baggage and Merchandise.
Section	23	Transportation of Property in Dispute.

Corporations for Navigation by Steam.

Sec. 1. Treasurer's office. R. S. c. 59, § 1. Treasurers of corporations created for navigation by steam shall keep an office within the state.

Sec. 2. Liability for neglect and misconduct. R. S. c. 59, § 2. Such corporations are liable for 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.

^{*57 Me. 211.}

Sec. 3. Boats liable for loss or damage of property transported, and may be attached. R. S. c. 59, § 3. For 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 sold like other personal property on an execution issued on the judgment recovered in such suit, and any surplus shall be paid to the owner of the boat. Such attachment is effectual against any conveyance or lien after such loss or injury, and prior to the attachment.

Provisions for Safety on Inland Steamers.

Sec. 4. Inspection of vessels navigated on inland waters of state placed under jurisdiction of public utilities commission. 1923, c. 149, § 1. Every vessel subject to the provisions of this chapter and every person, firm, or corporation owning or operating the same is hereby placed under the jurisdiction of the public utilities commission, for the purposes enumerated in this chapter. The commission shall employ such inspectors, engineers, or other assistants as may be required to carry out the provisions of this chapter.

Sec. 5. Definitions. 1923, c. 149, § 2. The term "commission" when used in this chapter means the public utilities commission.

The term "vessel" when used in this chapter means any boat or vessel operated by machinery propelled by steam or other motive power.

The term "steamboat" when used in this chapter means any vessel propelled by steam.

The term "motor-boat" when used in this chapter means any vessel propelled by motive power other than steam.

Sec. 6. Lights to be shown; how lights shall be fitted. R. S. c. 59, § 4. 1923, c. 149, § 3. Every vessel navigated upon any of the inland waters of this state, and not subject to the authority of the United States inspection laws, between the hours of sunset and sunrise shall show:

1. On the starboard or right side a green light, of such a character as to be visible on a dark night with a clear atmosphere, at a distance of at least one mile, so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, and so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side.

2. On the port or left side a red light of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least one mile, so constructed as to show a uniform and unbroken light over an arc of the horizon of ten points of the compass, and so fixed as to throw the light from right ahead to two points abaft the beam on the port side.

The green and red lights shall be fitted with inboard screens, so as to prevent the lights from being seen across the bow and the illuminated portion of such lights of lenses shall be not less than three inches in diameter. Provided, however, that in the case of small vessels the public utilities commission may make special rules for lights of a different character.

Sec. 7. Steamboats and motor-boats shall be inspected; certificate of inspection; vessels kept for use in connection with camps and schools subject to provisions. R. S. c. 59, § 5. 1923, c. 149, § 4. Every steamboat navigated upon inland waters, and every motor-boat used for hire for the transportation of passengers or freight upon inland waters, before being so employed, shall be inspected and obtain from the commission a certificate authorizing its use subject to the following provisions: The owner or operator of any such vessel shall make application to the commission for registration, subject to such reasonable rules and regulations as the commission may make, which registration, if granted, shall terminate on the last day of the calendar year in which it is issued. A vessel kept for use or rental either by itself or in connection with a camp, cottage, or real estate, or used in connection with any school or camp to which boys or girls are admitted for compensation, or utilized by any officer, agent, or employee of such camp or school, for the transportation of any such boys or girls, shall be considered as kept for hire and shall be subject to the provisions of this chapter.

Sec. 8. Woodwork about boilers, chimneys, etc., to be protected. R. S. c. 59, § 7. 1923, c. 149, § 5. Every vessel shall be constructed so that the woodwork about the boilers, chimneys, fire-boxes, cook houses, stove and steam pipes exposed to ignition shall be thoroughly protected by some incombustible material, in such a manner as to permit the air to circulate freely between such material and woodwork and other ignitable substance; and before granting a certificate of inspection, the commission shall require such other provisions to be made as they shall deem necessary to guard against loss or damage by fire.

Sec. 9. Registration number to be displayed; certain vessels to have name painted on sides of bow. 1923, c. 149, § 6. Every vessel subject to registration shall display upon each side of the bow its registration number, in numerals painted upon or attached thereto, of suitable size and color and so placed as to be always plainly visible. Every such vessel more than thirty feet in length measured from end to end over deck, excluding sheer, shall have her name painted upon each side of the bow or attached thereto in letters of suitable size and color and so placed as to be always plainly visible. The name of such vessel shall not be changed without the consent of the commission.

Sec. 10. Boats, properly equipped, to be carried by vessels over 30 feet in length; life preservers. R. S. c. 59, §§ 8, 9. 1923, c. 149, § 7. Every vessel more than thirty feet in length, measured from end to end along deck, excluding sheer, subject to registration, shall have at least one substantial boat, with life lines attached, properly supplied with oars, kept tight and in good condition at all times, and ready for immediate use. In addition thereto, such other boats shall be carried as the commission, on account of the route or the number of passengers, may deem requisite. 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 skilful boatmen. The commission may make such rules and regulations as it deems necessary, designating what boats, if any, shall be carried by vessels less than thirty feet in length.

Every vessel shall be provided with one life preserver, approved by the commission, for each passenger and each member of the crew. The 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 they are kept shall be indicated by printed notices, posted in such places on the vessel as the commission shall direct. Floats also may be required by the commission.

Any vessel or scow while towed by another vessel shall have on board one life preserver for each person on board and shall carry such other equipment as is deemed necessary by the commission, together with a certificate, to be kept on board said vessel or scow, stating what equipment shall be carried.

The commission may from time to time make such reasonable rules and regulations relating to other equipment and safety appliances for vessels subject to the provisions of this chapter, as they may deem necessary.

Sec. 11. Stairways and gangways to be provided. R. S. c. 59, § 10. 1923, c. 149, § 8. Every vessel whose size and manner of construction require it shall be provided with permanent stairways and other adequate means for convenient passage from one deck to another, with gangways sufficiently large to allow persons to pass without obstruction, by freight or otherwise, fore and aft for the entire length of the vessel, and to and along the guards thereof.

Sec. 12. Annual inspections provided for; commission to fix capacity; safety valve not to be loaded or obstructed; certificate of inspection, how made up and posted. R. S. c. 59, § 11. 1923, c. 149, § 10. The commission shall annually, or oftener, inspect every vessel of the description mentioned in section seven, examine her hull, engine, boiler, boats, and other equipment, apply proper tests to her boilers, ascertain how long it will be safe to use the same, determine the pressure of steam allowed, regulate the fusible plugs, safety valves and steam cocks, so as to insure safety; require such changes, repairs and improvements to be adopted and made as they shall deem prudent for the contemplated route. The commission shall fix the number of passengers to be transported, and no greater number shall be received or allowed at any one time, unless special permission is first obtained therefor, under such precautions as the commission may deem expedient.

No 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 employ any other means or device whereby the boiler may be subjected to a greater pressure than the amount allowed by the commission's certificate, nor shall intentionally derange or hinder the operation of any machinery or device employed to denote the state of the water or steam in any boiler, or to give warning of approaching danger, nor shall intentionally permit the water to fall below the prescribed low water line of the boiler.

The commission, if satisfied that any vessel is in all respects safe and in conformity with the provisions of this chapter, shall give its certificate, setting forth the age of the vessel, the age of the boilers, the pressure of steam it is authorized to carry, the number of boats and life preservers it requires, and the number of passengers it can transport. One copy of this certificate and of this section shall be kept posted in some conspicuous place upon such vessel. If the commission refuses to grant a certificate to any vessel, it shall make and deliver to the owners of the vessel a statement in writing giving the reasons for such refusal.

Sec. 13. Masters, pilots, engineers and operators, to be examined and licensed; license to be posted on vessel. R. S. c. 59, § 13. 1923, c. 145, § 11. Every person employed as master, pilot, engineer, or operator on any vessel subject to the provisions of this chapter, shall be examined by the commission as to his qualifications, and if satisfied therewith it shall grant him a license for the office, which license shall expire on the last day of the calendar year in which it is issued, unless sooner revoked by the commission for intemperance, incompetency, or wilful violation of duty. The commission may grant a renewal of such license upon written application and without further examination, subject to such reasonable rules and regulations as the commission may prescribe. Said license shall be framed under glass and posted in some conspicuous place on board such vessel. Any master, pilot, engineer, or operator who holds a license to navigate any such vessel may under such license be employed on any other vessel owned or navigated upon inland waters within this state.

Sec. 14. Vessels to comply with provisions of this chapter; penalty for navigating contrary to provisions; commission to investigate accidents. R. S. c. 59, § 14. 1923, c. 149, § 12. Every vessel described in section seven shall comply with all the terms and provisions of this chapter, and with all orders, regulations, and requirements of the commission; and if any such vessel is navigated without complying therewith, or without the certificate of the commission, the owners and master, severally, shall forfeit to the state five hundred dollars for each offense, half thereof to the informer, unless otherwise provided, for which sum the vessel so engaged is liable, and may be proceeded against by attachment in a qui tam action, commenced within sixty days after the commission of the offense, or said penalty may be recovered by indictment. In case of damage by collision, fire, or explosion, the commission shall forthwith investigate the cause thereof, and if found to have been occasioned by a violation of any of the aforesaid provisions, or of the orders, regulations, and requirements of said commission, they shall so certify to the attorney general, and to the county attorney in the county where the offense was committed, together with the names of the parties and witnesses, and prosecution shall be instituted forthwith against all parties liable. But if any such vessel 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 supplied temporarily until another licensed officer can be obtained. Provided, however, that if the owners and master of such vessel seasonably notify the commission of the expiration of its certificate, and request a new inspection and certificate, and said commission fails to make said inspection and issue said certificate, when the vessel is entitled thereto, such owners or master are not liable for any of the penalties provided in this chapter on account of navigating such vessel without a certificate of inspection.

Sec. 15. Penalty for failure to show lights. R. S. c. 59, § 4. 1923, c. 149, § 3. Whoever neglects or refuses to observe the provision of section six of this chapter shall be punished by a fine of ten dollars.

Sec. 16. Penalty for acting as master, pilot, engineer, or operator without license. R. S. c. 59, § 13. 1923, c. 149, § 11. Whoever acts as master, pilot, engineer or operator (on any vessel subject to the provisions of this chapter, without having in force the license required by Sec. 13 of this chapter) shall be punished by a fine of fifty dollars for every day he acts without such license.

Sec. 17. General penalties; jurisdiction of courts. 1923, c. 149, § 13. Any person who shall violate any of the provisions of this chapter (for which a specific penalty is not otherwise prescribed) shall be punished by a fine of not less than ten dollars nor more than five hundred dollars or shall be imprisoned for *not exceeding one year* [a term less than one year] or by both such fine and imprisonment. Municipal courts and trial justices shall have concurrent jurisdiction with the superior and supreme judicial courts to enforce this penalty.

Unclaimed Baggage and Merchandise.

Sec. 18. Merchandise unclaimed for six months, may be sold to pay charges. R. S. c. 59, § 17. Whenever baggage, goods, merchandise, packages, or parcels, transported by any railroad, steamboat, express, or stage company, existing by virtue of the laws of this state, remain unclaimed for six months after its arrival at the point to which it shall have been directed, the same may be sold at auction in the city or town where said railroad, steamboat, express, or stage company has its general or principal office, or any freight house; and whenever baggage, goods, merchandise, packages, or parcels transported by any railroad, steamboat, express, or stage company, not existing by virtue of the laws of this state, and having no office of president, treasurer, clerk, or general superintendent within this state, but doing business in this state, remain unclaimed for six months after its arrival at the point to which it shall have been directed, the same may be sold at auction, to pay the charges thereon and the expense of advertising and selling.

See c. 43, § 10.

Sec. 19. Notice of sale; disposal of proceeds. R. S. c. 59, § 18. Any company existing by virtue of the laws of this state holding any such articles or merchandise, shall before selling the same, give thirty days' notice of the time and place of sale, in four public newspapers, one published at Portland, in the county of Cumberland; one published at Augusta, in the county of Kennebec; one published at Lewiston, in the county of Androscoggin; and one published at Bangor, in the county of Penobscot; said notices shall contain a brief description and list of all such property, and shall describe such marks thereon as may serve to identify them, together with the name of the consignee and the place to which said articles were billed. Any company not existing by virtue of the laws of this state, and having no office or president, treasurer, clerk, or general superintendent, within this state, but doing business within this state, before selling any such articles or merchandise, shall give thirty days' notice of the time and place of sale, by publishing notice in some public newspaper, printed in the county where such merchandise is so held, three weeks successively, the last publication to be at least seven days before the day appointed for the sale; if no newspaper is published in the county where such articles or merchandise are so held, such notice shall be published in some newspaper in an adjoining county. Such articles or merchandise shall be sold at the place where held. The proceeds of all goods so sold, after deducting the costs of transportation, storage,

advertising, and sale, shall be placed to the credit of the owner, in the books of the company making the sale; and shall be paid to him on demand; and such company shall not be liable to said owner of such property for any greater sum than so received from said sale.

Sec. 20. Common carriers may sell perishable goods which owner neglects or refused to receive. R. S. c. 59, § 19. When a common carrier has transported property of a perishable nature, which cannot be kept without great deterioration or substantial destruction, to its place of destination, and has notified the owner or consignee of the arrival of the same, and the owner or consignee, after such notice, has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, said carrier may, in the exercise of a reasonable discretion, sell the same at public or private sale without advertising, and the proceeds, after deducting the amount of said freight and charges and expenses of sale, shall be held for the persons entitled thereto; and if the owner or consignee cannot be found on reasonable inquiry, the sale may be made without such notice.

Sec. 21. May sell livestock after owner has been notified and refused to take away; proceedings, when owner or consignee cannot be found; notice of sale. R. S. c. 59, § 20. When a common carrier has transported livestock which can be kept only at continual expense, to its place of destination, and has notified the owner or consignee of the arrival of the same, and the owner or consignee after such notice has refused or omitted to receive and take away the same and pay the freight and proper charges thereon, said carrier may cause the same to be sold at auction to pay the freight and charges thereon, including the cost of keeping, and the expenses of advertising and selling; and if the owner or consignee cannot be found on reasonable inquiry, the carrier may cause the same to be advertised and sold as aforesaid without such notice. Before selling any such livestock, the common carrier holding the same shall give two weeks' notice of the time and place of sale in a newspaper published in the place where said livestock is held, if any; otherwise in a newspaper published at a place nearest thereto. Said notice shall reasonably describe said livestock; and the proceeds of sale, after deducting the amount of freight and charges, including the cost of keeping, and the expenses of advertising and sale, shall be held for the persons entitled thereto.

Sec. 22. All sales shall be recorded. R. S. c. 59, § 21. All sales under the foregoing provisions, shall be recorded in a suitable book, open to the inspection of claimants, in which the articles sold shall be correctly described, and the charges and expenses thereon, and the price at which they were sold, shall be entered.

Transportation of Property in Dispute.

Sec. 23. Transportation of property, when the title is in dispute. R. S. c. 59, § 22. When property is delivered to a common carrier, for transportation, and any person other than the consignor or consignee shall claim the title to such property and shall forbid its transportation, he shall forthwith give written notice to the carrier forbidding its transportation, and thereupon the carrier shall be authorized to delay the transportation for the space of five days, and unless within such five days such claimant shall replevy such property, or if he shall fail to give such written notice, the carrier is authorized to proceed with the transportation of such property and shall not be liable for so transporting.

Note. Supreme Judicial Court has jurisdiction in equity, of bill of interpleader where a common carrier is plaintiff, c. 90, § 6, ¶ viii.

CHAPTER 67.

Telegraph and Telephone Companies, Gas, and Electric Light and Power Companies.

- Sections 1-18 The Organization of Electric and Gas Companies; Their Powers and Restrictions Thereon.
Sections 19-22 Inspection of Meters.
Sections 23-25 Duties of Telegraph Companies.
Sections 26-36 Regulation of Posts and Wires.

The Organization of Electric and Gas Companies; Their Powers and Restrictions Thereon.

Sec. 1. Transmission of electric power beyond limits of state, prohibited. R. S. c. 60, § 1. No corporation, unless expressly authorized so to do by special act of the legislature, shall transmit or convey beyond the confines of the state for the purpose of furnishing power, heat or light, any electric current generated directly or indirectly by any water power in this state; nor sell or furnish, directly or indirectly, to any person, firm or corporation, any electric current so generated to be transmitted or conveyed beyond the confines of the state for any of such purposes. Nothing in this section, however, shall prevent any railroad corporation doing business in this state from transmitting electric current, however generated, beyond the confines of the state for the purpose of operating its road between some point in this state and any point or points beyond its confines; nor shall this section apply to any corporation engaged on the third day of July, one thousand nine hundred and nine, in conveying or transmitting electric current beyond the confines of the state, or chartered or empowered so to do, nor affect or impair any contracts then existing for the transmission of electric current beyond the confines of the state.

172 Fed. 545; 120 Ind. 575.

Sec. 2. Penalty for violation. R. S. c. 60, § 2. Any corporation violating any provision of the preceding section may be dissolved and its franchises forfeited to the state upon proper proceedings to be instituted by the attorney-general whenever directed by the governor.

Sec. 3. Organization of electric and gas companies. R. S. c. 60, § 3. Corporations for the operation of telegraphs or telephones, and corporations for the operation of both telegraphs and telephones, and corporations for the purpose of making, generating, selling, distributing, and supplying gas or electricity, or both, for lighting, heating, manufacturing, or mechanical purposes, in any city or town, or two or more adjoining cities or towns, within the state, or for either or any of such purposes, may be organized under the provisions of sections six to eleven inclusive of chapter fifty-five. But no corporation, so organized, person or association shall have authority, without the consent of the public utilities commission to furnish its service in or to any city or town in or to which another corporation, person, or association is furnishing or is authorized to furnish a similar service; provided, however, that any corporation authorized to make, generate, sell, distribute, and supply electricity may sell and distribute

electricity to any other corporation similarly authorized, and may sell and distribute electricity to any street railroad company.

*98 Me. 325; *110 Me. 289.

Sec. 4. Consent to be had only after hearing before the public utilities commission. R. S. c. 60, § 4. No such consent and no license, permit, or franchise shall be granted to any person, association, or corporation to operate, manage or control any public utility of the kind named in the preceding section in any city or town where there is in operation a public utility engaged in similar service or authorized therefor until the public utilities commission has made a declaration after a public hearing of all parties interested that public convenience and necessity require such second public utility.

Sec. 5. Consent only given to corporation organized under laws of Maine. R. S. c. 60, § 5. No such consent to operate, manage, or control any public utility shall be hereafter granted to a corporation unless such corporation is duly organized under the laws of the State of Maine or authorized by such laws to do business in this state.

Sec. 6. Physical connection between lines of corporations authorized under supervision of public utilities commission. R. S. c. 60, § 6. Any corporation organized under the provisions of sections six to eleven, both inclusive, of chapter fifty-five, shall have authority to extend its lines to connect with the feed lines of a corporation generating and selling electricity, and such corporation shall be obliged to furnish electricity if requested to the extent of its reasonable capacity and at reasonable rates, provided the public utilities commission shall so order upon application therefor, after public hearing of all parties interested; and said commission may fix such terms and conditions as shall safeguard the rights and interests of both the generating company and the distributing company. Petition for such public hearing may be made by ten individuals who contemplate the organization of a corporation as above provided and the commission may hold its hearing thereon and make its order, and if the petitioners organize a corporation and begin business within one year said order shall be operative and effective to give authority to said corporation.

Sec. 7. Contents of certificate. R. S. c. 60, § 7. The certificate provided by section nine of chapter fifty-five to be prepared and filed in the secretary of state's office, by such telegraph or telephone company shall set forth, in addition to the statements required by said section, the general route of telegraph or telephone lines proposed to be constructed by such corporation and the points to be connected thereby; and the certificate to be prepared and filed by such gas or electric company shall specify, in addition to the statements required by said section, the city, or town, or the adjoining cities or towns within which said corporation proposes to make, generate, sell, distribute or supply gas or electricity, or both, for the purposes named in section three of this chapter, and no corporation so organized shall be authorized to make, generate, sell, distribute, or supply gas or electricity, in any city or town not specified in said certificate.

Sec. 8. May hold real estate. R. S. c. 60, § 8. Corporations organized under this chapter may purchase, hold, and convey such real estate and personal property as shall be necessary for the purposes for which they are created.

Sec. 9. Telegraph and telephone companies may pass along highways and across waters on route. R. S. c. 60, § 9. Every corporation organized hereunder for the purpose of operating telegraphs or telephones, may, except as herein limited, construct, maintain, and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in this

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chapter, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along such route or routes, with all necessary erections and fixtures therefor.

94 Me. 214.

Sec. 10. Gas and electric companies may pass along highways. R. S. c. 60, § 10. Every corporation organized hereunder for the purpose of making, generating, selling, distributing, and supplying gas or electricity for the purposes named in this chapter, may lay its pipes and wires and construct and maintain its lines in, upon, along, over, across and under the roads and streets in any city or town in which it is authorized to supply gas or electricity, or both, subject, however, to the conditions and under the restrictions provided in this chapter.

Sec. 11. Location and property of one corporation cannot be taken by another without consent, or act of legislature. R. S. c. 60, § 11. No corporation organized hereunder shall have authority, except by special act of the legislature, to take, appropriate or use, the location, pipes, lines, land or other property of any other corporation, person, or firm, doing or authorized to do a similar business, without consent of such other corporation, person or firm.

Sec. 12. Before laying pipes and wires, corporation to obtain permit of municipal officers. R. S. c. 60, § 12. No such corporation shall lay its pipes or place its wires under the surface of any road or street, or dig up or open the ground in any road or street, until it shall have obtained as prescribed in the following section a permit in writing from the municipal officers of the city or town in which such road or street is located, which permit shall be signed by such municipal officers, and shall specify the roads and streets and the location therein in which such pipes or wires shall be laid; but such permit shall not affect the right of any party or parties to recover damages for any injury to persons or property by the doings of any such corporation.

Sec. 13. Telegraph, telephone, light, heat, and power corporations authorized to place wires and cables under surface of streets, subject to permit from municipal officers. R. S. c. 60, § 13. Telegraph, telephone, gas, electric light, heat, or power companies chartered by special act of legislature or organized under the general laws of the state, and all such companies, wherever chartered or organized, engaged in the business of transmitting intelligence, heat, light, or power by electricity, or of furnishing gas for light, heat, or power, may, in any city or town, place their pipes, wires and cables and all conduits and other structures for conducting and maintaining such wires and cables under the surface of those streets and highways in which such companies are empowered to obtain locations for their pipes, poles, and wires; subject, however, to the written permit therefor of the municipal officers of such city or town, and subject also to such rules and regulations as to location and construction as such municipal officers may designate in their permit. Proceedings for obtaining such permit shall be had in accordance with the provisions of sections twenty-six to thirty-one, both inclusive, of this chapter relating to the location of posts and wires in public ways. But permits to open streets and highways for the purpose of relaying or repairing such pipes, wires, cables, conduits, and other structures may be granted without notice.

See c. 27, §§ 116-125.

Sec. 14. Public travel not to be obstructed in opening streets. R. S. c. 60, § 14. Any such corporation digging up and opening such roads and streets, shall do so in such a manner as to cause the least possible interference with public travel, and shall put all such highways, roads, and streets which it shall dig into and open, into as good repair as they were before they were dug into and

opened; and on failure to do so within a reasonable time, such corporation shall be deemed guilty of causing a public nuisance, and shall be liable to the city or town for all expenses incurred in making such repairs.

Sec. 15. Poles, lines, and fixtures to be so constructed as not to incommode public travel; or interfere with ornamental trees. R. S. c. 60, § 15. Every such corporation shall so construct and maintain its poles, lines, fixtures, and appliances in, along, over, under and across the roads and streets, in which it may obtain locations, and across or under any of the waters upon and along its route or routes, as not to incommode the use of such roads and streets for public travel, or interrupt the navigation of such waters; and provided, further, that no such corporation shall injure, cut down or destroy any fruit tree, or any tree or shrub standing and growing for the purposes of shade or ornament; but this chapter shall not be so construed as to authorize the construction of any bridge across any of the waters of the state.

See R. S. c. 5, § 116.

Sec. 16. Liability for damages. R. S. c. 60, § 16. Every corporation organized under the provisions of this chapter shall be liable in all cases, to repay any city or town all sums of money that said city or town may be obliged to pay on any judgment recovered against it for damages occasioned by any obstruction, digging up or displacement of any way or street by said corporation, together with counsel fees and expenses necessarily incurred in defending said town in actions therefor; provided, however, that said corporation shall have notice of the commencement of any and all suits for such damage, and such corporation shall have the right to defend any such action at its own expense.

Sec. 17. Telegraph or telephone companies may connect with other lines; may take land as for public uses. R. S. c. 60, § 17. 1921, c. 49. Every corporation operating a telegraph or telephone line in the state may connect its line or lines with those of any other like corporation, and may sell or lease its lines and property, in whole or in part, to any other like corporation, and may purchase or lease the line, or lines, and property, in whole or in part, of any like corporation, upon such terms as may be agreed upon by the contracting parties, subject, however, to the control of the public utilities commission; and may purchase, or take and hold as for public uses, land necessary for the construction and operation of its lines. Land may be so taken and damages therefor may be estimated, secured, determined and paid as provided by sections twelve to twenty-two inclusive of chapter sixty-nine.

*106 Me. 368.

Sec. 18. Gas companies authorized to furnish gas for power. R. S. c. 60, § 18. All corporations in the state which are authorized to furnish gas for lighting may furnish gas for heating and for power, and proper appliances therefor, under the same conditions and with the same rights as they now furnish gas for lighting purposes.

Inspection of Meters.

Sec. 19. All meters furnished to consumers must be inspected and sealed. R. S. c. 60, § 19. No corporation, municipality, district, or person shall furnish for use any gas, electric, or water meter in any city or town, in which there shall be a duly appointed and qualified inspector of meters, unless such meter shall have been first inspected, approved, marked, and sealed by such inspector. Every corporation, municipality, or district or person furnishing gas, water, or electric current to consumers, shall provide and keep in and upon its premises a suitable and proper apparatus, to be approved and stamped by the inspector

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of meters for such city or town, for testing and proving the accuracy of all water, gas, and electric meters, by which apparatus every meter furnished to a consumer shall be tested.

Sec. 20. Inspectors of meters, appointment. R. S. c. 60, § 20. The municipal officers of cities and towns may annually appoint an inspector of meters who shall serve for one year or until another is qualified in his stead, at such salary as the municipal officers shall determine. The said inspector shall have charge of the inspection of all water, gas, and electric meters furnished for use in the city or town.

Sec. 21. Duties. R. S. c. 60, § 21. He shall, upon application in writing as provided in the following section, by any consumer of gas, water, or electric current in said city or town, inspect, examine, prove, and ascertain the accuracy of any gas, water, or electric meter of which complaint is made, and when the said meter shall be found, or made, to be correct, the inspector shall stamp or mark such meter with some suitable device, which device shall be recorded in the office of the clerk of the city or town where he was appointed.

Sec. 22. Application for inspection; removal of faulty meter; expense of inspection. R. S. c. 60, § 22. If any consumer, to whom a meter has been furnished, shall apply in writing to the city or town clerk for the inspection of such meter, and shall deposit with the clerk the fee fixed by the municipal officers for said service, the inspector shall inspect and test said meter and, if said meter on being so tested, shall be found to be incorrect to the extent of four per cent, if an electric meter, or two per cent, if a gas or water meter, to the prejudice of such consumer, the inspector shall order the corporation, district, municipality or person furnishing said meter forthwith to remove the same and to install in place thereof a meter which has been tested, approved, marked and sealed by an inspector of meters; and the inspector shall thereupon give a certificate to the consumer, showing the result of said test; upon presenting said certificate to the city or town clerk the consumer shall receive the fee deposited with said clerk; and in such case the corporation, district, municipality, or person shall bear the expense of such inspection and shall pay to the treasurer of the city or town the fee required of the consumer; but such consumer shall not be entitled to recover back in whole or in part from such corporation, municipality, district or person any sums paid for service prior to the filing of his application for inspection. All fees collected by the city or town clerk or treasurer shall be placed to the credit of the city or town to be used for municipal purposes.

Duties of Telegraph Companies.

Sec. 23. Telegraph companies required to maintain offices in certain places. R. S. c. 60, § 23. Every corporation doing business in the state as a telegraph company, shall maintain an office in every city or town containing twelve thousand inhabitants or more, where, under any circumstances, it undertakes to serve, in any way, the citizens of said town; such office shall be located in the business portion of every such town and easy of access to the public, and shall be open for the reception and transmission of messages from eight o'clock in the forenoon to eight o'clock in the afternoon in every secular day. The delivery of messages shall be without cost to the party to whom they are addressed when delivered within a radius of one mile from said office.

Sec. 24. Liability of owners of telegraphs for errors or delays in sending dispatches; penalty for falsifying or divulging contents of dispatch. R. S. c. 60, § 24. A person or company owning or using a line of telegraph, wholly or partly in the state, for any error or unnecessary delay in writing out, transmit-

ting or delivering a dispatch within its delivery limits, making it less valuable to the person interested therein, is liable for the whole amount paid on such dispatch; all dispatches shall be transmitted in the order in which they are received, under a penalty of one hundred dollars, to be recovered by the person whose dispatch is wilfully postponed; an operator or agent who designedly falsifies a dispatch, forfeits 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, the person or company employing him forfeits a like sum; and if such operator or agent wilfully divulges any part of the contents of a private dispatch entrusted to him for transmission or delivery, he shall be fined not exceeding one hundred dollars, or imprisoned not more than three months.

*60 Me. 29, 33.

Sec. 25. Officers responsible for frauds, and company subject to common law liabilities. R. S. c. 60, § 25. Nothing herein exonerates telegraph operators, agents, clerks or other officers, from liability for fraud committed or attempted by means of telegraphic communication; or the company from any liability existing at common law for the neglect or wrong-doing of such company or its agents.

43 Me. 495; 60 Me. 29.

Regulation of Posts and Wires.

Sec. 26. Electric companies subject to duties and liabilities prescribed herein. R. S. c. 60, § 26. Every company incorporated for the transmission of intelligence, heat, light, or power by electricity, and all persons and associations engaged in such business, shall be subject to the duties, restrictions and liabilities prescribed in the following sections.

86 Me. 237; *98 Me. 325; 110 Me. 294.

Sec. 27. Permit to construct lines must be had from municipal officers or county commissioners; proceedings and right of appeal; lines so erected are legal structures. R. S. c. 60, § 27. No such company, person, or association shall construct lines upon and along highways and public roads, without first obtaining a written permit, signed by the mayor and aldermen in case of cities, the selectmen in case of towns, and the county commissioners in case of plantations and unorganized townships, specifying the kind of posts, where and how they shall be located and set, and the height of the wire above the ground; and if the line specified in the permit is a telephone line and is not constructed and public telephone service established in connection therewith within eighteen months from the time the decision is filed, the permit shall be void. Before granting such permit, fourteen days' public notice thereof shall be given, and residents and owners of property upon the highways to be affected thereby shall have full opportunity to show cause why such permit should not be granted. Such public notice shall be given by publication in a county newspaper when the county commissioners are to act, and in some newspaper printed in such city or town, if any, the last publication to be fourteen days before said hearing; if in a town and no newspaper is printed therein, then by posting the same in some public and conspicuous place therein fourteen days before said hearing. When the application for such permit is filed, personal notice, if deemed necessary, may be ordered by such officers and shall be given by such company, persons or association to the residents and owners of property to be affected thereby. At the hearing such company, persons or associations, before proceeding, shall first prove that such order of notice has been complied with and public notice given as hereinbefore required, and the adjudication of the mayor and

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aldermen, selectmen or county commissioners that such personal and public notice has been given shall be final and conclusive. If from any cause the notice given appears to have been defective, said officers may order new notice, not exceeding seven days, and adjourn said hearing to a time named in said new order of notice. After the erection of the lines, having first given all persons interested an opportunity to be heard, such officers may direct any alteration in the original permit. Such permits, specifications, and decisions shall be recorded in the records of the city, town, or county commissioners. Posts and wires erected and maintained in accordance with the provisions of this section shall be deemed legal structures and the party maintaining the same shall be liable on account thereof only for carelessness or negligence in the erection or maintenance of the same. In case of plantations and unorganized townships any person or corporation interested may appeal from the decision of the county commissioners to the supreme judicial court in the manner provided in sections fifty-nine, sixty, sixty-one and sixty-two of chapter twenty-seven, relating to highways, and in case of cities and towns as follows: The decision of the mayor and aldermen or the selectmen shall be filed with the clerk of the city or town within one week from their final hearing; and within two weeks from such filing any person or corporation interested may appeal from their decision by filing notice of appeal with a copy of the original petition and adjudication with the clerk of the city or town and with the clerk of the board of county commissioners; the commissioners shall immediately entertain such appeal and give two weeks' public notice in a county newspaper of the time and place of hearing, which time shall be within thirty days from the time such appeal is filed; such hearing may be adjourned from time to time, not exceeding thirty days in all, and the commissioners shall file their decision within thirty days from the time the hearing is closed, and transmit a copy of the same to the clerk of the city or town, who shall forthwith record it.

82 Me. 471; *95 Me. 290; 101 Me. 379; 113 Me. 49; 118 Me. 416.

Sec. 28. Determination of damages; recovery of award and costs. R. S. c. 60, § 28. An owner of land near to or adjoining a highway or road along which lines shall hereafter be constructed, erected, or altered in location or construction by any company, person or association, if said owner's property is any way injuriously affected or lessened in value, whether by occupation of the ground, or air, or otherwise by such construction, alteration or location of any such line, whether such owner is also the owner of the fee in such way or not, may within six months after such construction, alteration or location apply to the mayor and aldermen, or selectmen, to assess and appraise the damage. Before entering upon the service, they shall severally be sworn to faithfully and impartially perform the duties required of them by this section. They shall on view make a just appraisal in writing of the loss or damage, if any, to the applicant, sign duplicates thereof, and on demand deliver one copy to the applicant, and the other to the company or its agent. If damages are assessed, the company shall pay the same, with the costs of the appraisers. If the appraisers award that the applicant has suffered no damage, he shall pay the costs of the appraisers. The award and costs may be recovered in an action of debt, if not paid in thirty days after written demand therefor served upon the company or any of its agents; the supreme judicial court for the county shall have jurisdiction thereof, and full costs shall be allowed. Before entering upon the discharge of their duties under this section, such municipal officers may require the applicant to advance to them their fees for one day and from day to day thereafter.

Sec. 29. Party aggrieved by assessment of damages, may appeal; determination. R. S. c. 60, § 29. Either party aggrieved by the assessment of damages, may, within twenty days after the award, file in the office of the clerk of courts for the county, a copy of the award, with reasons of appeal, a copy of which papers, attested by the clerk, shall be served on the adverse party at least fourteen days before the term of the supreme judicial court for that county, to be holden next after the expiration of said fourteen days. After entry, the matter shall be determined by a jury, or by the court by agreement of parties, in the same manner as other civil causes. If the company is the appellant, and the award is not decreased, the costs shall be paid by the company; if the applicant appeals, and the award is not increased, the costs shall be paid by the applicant.

Sec. 30. Permits must be obtained to cut wires and remove poles; penalties; damages. R. S. c. 60, § 31. 1919, c. 152. Whoever desires to cut, disconnect, or remove the wires or poles of a telegraph, telephone, electric light, or street railroad company in order to move a building, alter, repair, or improve a street, bridge, or way, or for any other necessary purpose; shall first apply in writing to the municipal officers of the towns or cities in and through which it is proposed to move. Whenever such an application is received the municipal officers shall fix a time and place for hearing and give reasonable notice thereof including actual notice to any utility whose service is likely to be interrupted or property interfered with. Upon hearing the municipal officers may grant a permit on such terms and conditions and make such apportionment of the expense as they deem best. Whoever disconnects or removes such wires or poles or moves any building without first obtaining such permit, shall be fined not exceeding five hundred dollars, or imprisoned not more than three years.

Provided, however, that unless the utility and the person or corporation desiring to cut, disconnect, or remove any wires or poles owned or used under contract by such utility for transmitting train orders or operating block signals, first agree upon the terms thereof, no such wire or wires, pole or poles, shall be cut, disconnected, or removed, until after, and in accordance with, a permit therefor granted by the public utilities commission, upon application therefor to said public utilities commission, and actual notice to the utility owning or using such wires or poles, and hearing. At such hearing said commission may grant such permit on such terms and conditions, and make such apportionment of the expense arising thereunder as it deems best. Whoever violates the provisions of this clause shall be punished in the manner above provided for violations of other portions of this section.

In case any way or bridge is damaged by reason of the granting of such permit the municipal officers shall determine what proportion of such damage shall be paid by the owner of said building to be recovered by the town in an action of debt.

Sec. 31. Enjoyment of right to attach wire, etc., to any building, limited. R. S. c. 60, § 32. No enjoyment by any company, person or association, for any length of time, of the privilege of having or maintaining posts, wires or apparatus, in, upon, over or attached to any building or land of other persons shall give a legal right to the continued use of such enjoyment, or raise any presumption of a grant thereof.

95 Me. 291.

Sec. 32. Revocation of location; new location to be granted; joint use of poles may be ordered; apportionment of expenses; orders and decisions in writing; long distance telephone lines excepted. R. S. c. 60, § 33. Whenever the municipal officers of any city or town having a population of more than forty thous-

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and inhabitants, in which any person, firm, or corporation maintains wires attached to poles, located in any public street or way, for conveying electric current or for the transmission of telephone or telegraph messages, determine, after notice and hearing, that public safety and the public welfare require the revocation of any location for poles already erected in any public street or way, they may revoke any such location and order such poles removed, which shall be done within a reasonable time by the person, firm, or corporation owning said poles; provided, however, that other suitable locations, or the right to use other poles jointly, shall be granted by the municipal officers to such person, firm, or corporation. The municipal officers of such cities and towns may, after notice and hearing, order the wires of any person, firm, or corporation, used for conveying electric current or the transmission of telephone or telegraph messages and attached to poles, located in any public street or way of such city or town, to be removed and attached to such other poles, however owned and controlled, legally located in the public streets or ways, as said municipal officers may designate; provided, that in their judgment such change is practicable and can be made without unreasonably interfering with the business of any person, firm or corporation. Before revoking any such location or ordering the removal of any poles or wires, public notice of the hearing shall be given to all persons interested by publication in some newspaper printed in said city or town, if any, the last publication to be fourteen days before the hearing; if no newspaper is printed in said city or town, said publication shall be in some newspaper printed in the county; personal notice shall be given to the owners of said poles and wires fourteen days before the hearing. The municipal officers may establish such regulations as they deem necessary for the joint use of such poles, and in case the several parties so using such poles, cannot agree as to the proportionate share each shall bear of the original cost and of the expense of maintaining such poles, or a proper annual rental for the use of the same, the municipal officers may, after hearing the parties, determine the proportionate part of such expense each party shall justly bear, or a proper rental therefor; personal notice shall be given to each party fourteen days before the hearing; and the owner of such poles may recover, in an action of assumpsit, of each party so using such poles, his share of such cost and expense, or the rental as determined by the municipal officers. All orders and decisions of the municipal officers under this section shall be in writing, and a record thereof shall be made by the city or town clerk, and the service of a copy thereof, attested by the clerk, upon the parties affected thereby shall be sufficient notice to the party so affected to render compliance obligatory. Provided, however, that this section shall not apply to long distance telephone wires, or lines of poles used for the support thereof; and for the purpose hereof no wire shall be deemed to be a long distance telephone wire which does not extend twenty miles at least in a direct line from a central office.

Sec. 33. Party aggrieved may appeal to the supreme judicial court; appointment of committee, and proceedings at hearing; acceptance or report. R. S. c. 60, § 34. Any party aggrieved by any order or decision of the municipal officers relating to the joint use or occupation of poles or by any of the regulations established by the municipal officers of said city or town relating to the joint use of poles, or by their decision as to his proportionate share of the original cost, or the cost of maintaining any joint poles, or the annual rental for the use of the same, may appeal from such orders, decisions or regulations of the municipal officers at any time, within ten days after service of notice of the same, to the next term of the supreme judicial court to be held in the county more than thirty days after service of such notice, excluding the first day of the session. The

appellant shall serve written notice of such appeal upon the 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, and the orders, decisions or regulations of the municipal officers from which he appeals and in what respect he is aggrieved thereby. The presiding justice at the first term of said court shall appoint three disinterested persons, not residents of the city or town named in the complaint, who shall, within thirty days after their appointment, after due notice and hearing, affirm the orders and decisions of the municipal officers, or amend or modify the same, or make new and further orders, decisions and regulations governing such joint use of such poles by any of the parties to the proceedings, or in relation to the proportionate share of the expense to be borne by each party using such joint poles, or the just and fair rental therefor; and their report, which shall be filed with the clerk of said court, upon being accepted by any justice of the supreme judicial court in term time or in vacation, shall be final and binding on all parties to the proceedings, except that questions of law arising under such proceedings may be reserved for decision by the law court. Any person affected by any order or decision of the municipal officers, who is not joined in the original complaint, may, on petition to the supreme judicial court, be joined therein at any time before hearing by the committee appointed under this section.

Sec. 34. Power and authority conferred are additional. R. S. c. 60, § 35. The power and authority conferred on municipal officers under section thirty-two are in addition to those vested in municipal officers under the provisions of sections twenty-six to thirty-one, both inclusive, of this chapter; and nothing contained in the two preceding sections shall be construed as giving to any party the right of appeal from any of the decisions, specifications, orders, or permits, or alterations thereof, of the municipal officers under the provisions of this chapter, except as provided in the preceding section.

Sec. 35. Penalty for affixing wire to building, etc., without consent of owner. R. S. c. 60, § 36. Every company, association, or person maintaining or operating a telephone or other electrical line, or any one who in any manner affixes or causes to be affixed to the buildings or building of another any structure, fixture, wire, or other apparatus, or enters upon the property of another for the purpose of affixing the same, in either case without the consent of the owner or lawful agent of the owner of such property shall, on complaint of such owner, or his tenant, be punished by fine not exceeding one hundred dollars.

101 Me. 379.

Sec. 36. Lines may be constructed along any railroad, by written permit; if parties cannot agree, either may apply to public utilities commission. R. S. c. 61, § 37. Such company, person, or association may construct a line upon or along any railroad by the written permit of the person or corporation operating such railroad, but in case such company cannot agree with the parties operating such railroad, as to constructing lines along the same, or as to the manner in which lines may be constructed upon, along or across the same, either party may apply to the public utilities commission, who, after notice to those interested, shall hear and determine the matter and make their award in relation thereto, which shall be binding upon the parties. The expenses of the hearing shall be paid by the company, person or association seeking to construct lines on the railroad, except that if the public utilities commission shall find that parties operat-

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ing the railroad, have unreasonably refused their consent, said parties shall pay the expenses.

*106 Me. 365.

Note. Provisions for weekly payment of wages apply to telegraph and telephone companies, c. 53, § 39.

Limitation of proceedings for damage for land taken by right of eminent domain, c. 94, § 113.

Penalty for improper use of telephones, c. 129, § 22; for unlawful combination against gas and electrical companies, c. 134, § 14. For malicious injuries to fixtures of electric power line, c. 139, §§ 10-12.

CHAPTER 68.

Aircraft.

Sec. 1. Terms defined. 1923, c. 220, § 1. The term "aircraft" as used in this chapter shall include every kind of vehicle or structure intended for use as a means of transporting passengers or goods in the air, including any airplane, hydro-airplane, seaplane, dirigible balloon, free balloon, or other apparatus propelled by currents or by power or motor contained in such apparatus. The term "pilot" shall include every person, who, being in or upon any aircraft or part attached thereto, undertakes to direct its ascent, flight, course, or descent in the air. The word "flight" shall include every kind of locomotion by aircraft. A "known, established, recognized field or place of landing" shall mean a public or private field or place of landing where the landing of aircraft is permitted by the owners thereof and such fact is publicly known. An "emergency place of landing" is any place where a landing may be effected in an emergency without endangering in any way, life or property on such place of landing. Limits of towns, cities of Maine, shall mean the land, or air above the land, or pier heads of any of the towns, cities of Maine.

Sec. 2. Persons operating aircraft to be licensed; aircraft to be registered; exceptions. 1923, c. 220, § 2. It shall be unlawful for any person to operate aircraft of any kind in this state unless he is licensed and the aircraft is registered either by the secretary of state, or a federal board or department established by congress, provided, however, that the provisions of this section shall not apply to unlicensed civilians when accompanied by a person licensed as aforesaid or by a military or naval aviator, but such licensed person or military or naval aviator shall be liable for the violation of any provision of this chapter committed by such unlicensed person.

Sec. 3. Registration of aircraft by secretary of state; contents of application; certificate of registration to be issued; transfer of ownership; inspection; marking of aircraft. 1923, c. 220, § 3. 1925, c. 185, § 1. Every owner of one or more aircraft in operation in this state shall file upon a blank furnished by the secretary of state, a statement of his name, residence, and post office address, and a description of each aircraft operated by said owner, and shall give such other information pertaining thereto as shall be required by the secretary of state. The secretary of state shall register each such aircraft, assign to it a distinguishing number, and shall thereupon issue to such owner a certificate of registration which shall contain the name, place of residence, and post office address of said owner, the number assigned to said aircraft, and such further information as the secretary of state shall determine. Such certificate shall at all times be carried upon such aircraft, and shall be subject to examination upon demand by any proper officer. Upon the transfer of ownership of any aircraft its registration

shall expire, and the person in whose name the aircraft is registered shall forthwith notify the secretary of state in writing stating the date of such transfer of ownership and the name, place of residence and post office address of the new owner. The registration of every aircraft shall expire at midnight on the thirty-first day of December in each year. No aircraft shall be registered until the secretary of state has examined and inspected or caused to be examined and inspected by one or more competent persons, said aircraft, and shall be deemed by such examiners or inspectors to be airworthy. All aircraft shall be required to display on the under surface of the upper wings and on both sides of the fuselage or any other part of the aircraft that may be designated by the secretary of state, the letters ME and license number of the aircraft, said letters and numerals to be not less than three feet in height on the wings and one foot in height on the fuselage and to be in color in contrast to the background.

Sec. 4. Operation of aircraft without license prohibited; examination of applicant; record of licenses to be kept; licenses expire December 31st; pilots required to keep a log; log subject to inspection. 1923, c. 220, § 4. 1925, c. 185, § 2. No person, except as provided in sections two and five, shall direct or operate an aircraft, or act as pilot of any aircraft, until he shall have obtained from the secretary of state a license for that purpose, except that any person may without such license, operate an aircraft upon or over land or water owned or leased by him, or upon or over land or water the owner of which has given written permission to such person to so operate thereon or thereover. No such license shall be issued until the secretary of state has examined the applicant therefor, or caused him to be examined by one or more competent persons, in such manner as said secretary of state may determine and said secretary of state is satisfied that the applicant is a proper person to receive such license. No license shall be issued to any person under twenty-one years of age. Applications for licenses shall be made upon blanks furnished by the secretary of state, which blank shall be in such form and shall contain such provisions not inconsistent with this chapter as said secretary of state may determine. A number shall be assigned to each license and a proper record of all applications for licenses issued shall be kept by the secretary of state at his office and shall be open to public inspection. Each license shall state the name, place of residence, and post office address of the licensee, and the number assigned to him, the class of aircraft to be operated, and such provisions not inconsistent with this chapter as the secretary of state may determine. Such license shall expire at midnight on the thirty-first day of December in each year. Such license shall at all times be carried by the licensee when acting as pilot or as instructor in any aircraft in this state, and shall be subject to examination upon demand by any proper officer. Every pilot operating an aircraft carrying passengers for hire in this state shall keep a log or record which shall contain all pertinent data with reference to the operation, maintenance, and repair of the aircraft and motor. Said log or record to be subject to inspection at any time by the secretary of state or his inspector of aircraft upon demand.

Sec. 5. Licenses for carrying passengers for hire. 1923, c. 220, § 5. 1925, c. 185, § 3. It shall be unlawful for any licensed pilot to carry passengers for hire unless said pilot shall obtain from the secretary of state a passenger carrying permit, application for such permit to be made upon blanks furnished by the secretary of state. The secretary of state shall grant such passenger carrying permits to such licensed pilots who have satisfied him that he is skilled in the flying of aircraft, and has had at least one hundred flying hours' experience as pilot not under instruction. No pilot shall carry any passengers until he has had

at least twenty-five hours' experience as a pilot not under instruction. For purposes of instruction, any unlicensed person may pilot any aircraft in this state only when under the instruction of a licensed pilot, whether such licensed pilot may be in the aircraft or in the immediate vicinity, on the ground or in the air.

Sec. 6. Registrations and licenses may be revoked. 1923, c. 220, § 7. The secretary of state may after due hearing, suspend or revoke any certificate of registration or license to operate issued to any person under the provisions of this chapter for any cause which he may deem sufficient.

Sec. 7. Non-residents may operate in this state 15 days without registration or license, except those carrying passengers for hire. 1923, c. 220, § 8. Any non-resident of this state, who has been granted a license to operate an aircraft under the laws of his state within one year, and who is thoroughly qualified, may operate aircraft in this state of a type which his training has qualified him to operate, not exceeding fifteen days in any one year, without complying with the provisions of this chapter relative to the registration of aircraft and the licensing of pilots for private purposes only. Non-resident commercial pilots and passenger carrying aircraft must be registered before carrying passengers for hire in this state.

Sec. 8. Trick flying prohibited except over established fields or landing places. 1923, c. 220, § 9. No aircraft over the limits of any town or city of Maine or over any fairground or other public place in, or on which, people are congregated shall be guided or controlled by the pilot in a manner designed to give any demonstration of trick flying or aerial acrobatics, or be given any manipulation of the controls which may tend to divert the aircraft from a normal flight, with every consideration for stability and safety, except above a known, established, recognized field or place of landing; and no aircraft shall fly over any part or section of any city, or of any fairground, or other public place, in, or on which, people are congregated at a height lower than that enabling said aircraft to glide in an emergency at all times to a known established or recognized open or unobstructed place on land or water; nor in flying within the limits of any city shall aircraft fly at a height lower than one thousand feet except at the beginning or end of a flight or flying on or over open water.

Sec. 9. Dropping of material from aircraft prohibited; handbills and circulars may be dropped if authority is obtained. 1923, c. 220, § 10. No person in any aircraft shall cause or permit to be thrown out, discharged or dropped, any ballast, instruments, tools, containers, unless it be directly over a place established for that purpose, and all equipment carried in aircraft shall be securely fastened in place before leaving the ground. By special permission of the proper officer of a municipality, handbills, circulars, cards, etc., may be dropped over a designated place.

Sec. 10. Meeting and passing of aircraft; right of way. 1923, c. 220, § 11. Aircraft approaching each other from different directions shall seasonably turn to the right in passing so as to give the other a fair and equal opportunity to pass. A lighter than aircraft shall at all times have the right of way over heavier than aircraft.

Sec. 11. Penalty. 1923, c. 220, § 12. 1925, c. 185, § 5. Whoever violates any provision of this chapter or any rule or regulation made hereunder shall be punished by a fine of not less than ten nor more than one hundred dollars, or by imprisonment for not less than one month or more than six months, or by both such fine and imprisonment. It shall be the duty of every officer charged with the enforcement of law to report to the secretary of state any violation of the provisions of this chapter.

CHAPTER 69.

Aqueducts and Water Companies.

Proceedings For Exercise of Right of Eminent Domain.

- Sections 1-10 Aqueducts and Water Companies.
 Sections 11-22 The Location of Property Taken for Public Uses, and the
 Assessment of Damages Therefor.
 Sections 23-27 Condemnation Proceedings by Water Districts.

Aqueducts and Water Companies.

Sec. 1. Meetings of proprietors for incorporation, how called. R. S. c. 61, § 1. Any persons associated by agreement in writing as proprietors of an aqueduct, for conveying fresh water into or within any town, or as proprietors of funds for establishing such aqueduct, may apply, in writing, to some justice of the peace for the county in which any portion thereof 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 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.

Sec. 2. Proceedings at meeting. R. S. c. 61, § 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 shall record all by-laws, votes, and other proceedings of the corporation, in books provided and kept by him therefor, open to the inspection of any person appointed by the legislature for that purpose.

Sec. 3. Authority of directors; enforcement of assessments. R. S. c. 61, § 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, 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 are sufficient to pay the same, with necessary charges; notice of the sale of such shares shall be given by advertising in some newspaper printed in the county three weeks successively, or by posting notifications thereof, twenty days at least before the sale, in at least two public places in each town wherein such aqueduct is, or is proposed to be made; and the surplus money, if any, arising from such sale shall be paid to the owner of the share so sold.

Sec. 4. Registry of shares and transfers. R. S. c. 61, § 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. Powers of proprietors; manner of voting. R. S. c. 61, § 5. The proprietors have one vote for each share, and may vote by proxy; for the breach of their by-laws they may impose penalties not exceeding thirty dollars for each offense; 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 person, may dig up or open any road for the purpose of laying their pipes, or repairing or extending their aqueduct; but not so as to prevent the convenient passage of teams and carriages.

Sec. 6. Shares sold for debts of holders; franchise, pipes, fountains, etc., may be sold for corporate debts; redemption; execution, when revived by scire facias. R. S. c. 61, § 6. Shares in such corporations 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.

112 Me. 439.

Sec. 7. Town may use pipes in case of fire. R. S. c. 61, § 8. A town where such aqueduct is located may put conductors into its pipes and draw water, free of expense, to extinguish fire in a burning building, if such conductors are so secured that water shall be drawn for that purpose only.

See c. 13, § 6, ¶ x.

Sec. 8. Corporate powers continue after dissolution; enforcement of judgments. R. S. c. 61, § 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. 9. Proprietors, tenants in common of property left. R. S. c. 61, § 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.

Sec. 10. Penalty for injuring an aqueduct. R. S. c. 61, § 7. Whoever maliciously injures such aqueduct or any of its appurtenances forfeits not exceeding twenty dollars to 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.

The Location of Property Taken For Public Uses, and the Assessment of Damages Therefor.

Sec. 11. Rights of parties as to procedure regulated. R. S. c. 61, § 11. 1921, c. 49, § 2. All locations made and all damages assessed for the taking of property by the exercise of the right of eminent domain, except for property taken by the United States, the State of Maine, or a county or municipality thereof, or a quasi-municipal corporation, or steam railroad or street railroad corporations, and excepting property which, when taken, is being, or is necessary to be used by the owner thereof in the performance of a public duty, shall be made and assessed and the rights of the parties shall be as follows, notwithstanding anything contained in the act granting such right.

Sec. 12. Proceedings before entry; location and map to be filed with county commissioners; description may be corrected. R. S. c. 61, § 12. All property so taken shall, before it is entered upon for any purpose except to make surveys, be located by a description, signed by the party taking, which shall describe in detail the property taken, and give the names of the owners thereof and shall be accompanied by a map showing said property as described. Such location and map shall be filed with the county commissioners of the county where the property is located, who shall indorse the time of filing thereon and order the location recorded. A copy of said location shall be recorded in the registry of deeds of the county or registry district where the property is located. When for any reason the taker fails to acquire the property authorized to be taken and which is described in such location, or the location recorded is defective or uncertain, the taker may, at any time, correct and perfect such location, and file a new description thereof; and in such case the taker is liable in damages, only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the taker shall not be liable for any acts which would have been justified if the original taking had been valid and legal.

Copies of proceedings to be recorded in registry of deeds, c. 15, § 18; 82 Me. 337; 94 Me. 90; 108 Me. 143; 114 Me. 150.

Sec. 13. Owners of property taken entitled to damages; security therefor. R. S. c. 61, § 13. For all property taken by the exercise of the right of eminent domain the owners are entitled to damages to be paid by the taker and estimated by the county commissioners, on written application of either party, made within three years after such taking; 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 property is taken may settle and give a valid release for damages; and persons having any interest in such property have the rights and remedies of owners to the extent of their interest. When requested by the owner, said commissioners shall require the taker to give security for the payment of damages and costs, by depositing at its risk, with the clerk, within thirty days, 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 shall be paid to him as will satisfy his judgment. Notes or obligations so deposited shall 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 shall be paid to the taker of such property.

See c. 94, § 113.

Sec. 14. Notice to adverse party. R. S. c. 61, § 14. In all cases, the notice to

the adverse party of the time and place of hearing on any petition to the county commissioners for the assessment of damages on account of any property so taken 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 being fourteen days before said hearing.

Sec. 15. Commissioners in awarding damages may prescribe terms for use of property taken. R. S. c. 61, § 15. The commissioners, in awarding damages for property so taken, on the application of the taker, may prescribe such terms and conditions, in all respects for the use of the property taken, by the owner thereof, and by the taker respectively, as will secure the best accommodation of the owners of the property, and the convenient use of the same by the taker. In case of appeal by either party the only question in issue shall be the amount or measure of damages on the terms and conditions imposed by the commissioners.

See c. 62, § 34.

Sec. 16. Report of commissioners. R. S. c. 61, § 16. The commissioners shall, at a regular session, make a report of their general estimate of damages, stating therein specifically the terms and conditions imposed by them and the rights and obligations of each party, and cause it to be recorded; their clerk shall then make out a notice to each person, stating the amount of damages awarded to him, which shall 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 shall be added to the costs of the proceedings which shall be paid by the taker.

Sec. 17. Appeal. R. S. c. 61, § 17. Any person aggrieved by the decision or judgment of the county commissioners in relation to damages for property taken may appeal to the next term of the supreme judicial court to be held in the county where the property is situated, more than thirty days from the date when the report of the commissioners is made, excluding the day of the commencement of the session of the court, which court shall determine the same by a committee of reference if the parties so agree, or by the verdict of its jury; and shall render judgment and issue execution. If the owner appeal and the damage finally recovered is not more than the award of the county commissioners, the taker shall recover costs from the time of appeal, otherwise the owner shall recover costs. If the taker appeal and the damage finally recovered is not less than the award of the county commissioners, the owner shall recover costs from the time of appeal, otherwise the taker shall recover costs. The appellant shall serve written notice of such appeal upon the 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 as in other cases.

Sec. 18. Deposit of awards. R. S. c. 61, § 18. When the proceedings are closed, the taker may deposit with the clerk the amount of damages awarded with interest thereon to time of deposit, which shall be in full satisfaction of all claims, unless a demand has been previously made and payment neglected.

See c. 62, § 37.

Sec. 19. Damages remaining unpaid; proceedings in equity. R. S. c. 61, § 19. When the damages remain unpaid for more than thirty days after they are due and demanded or the security hereinbefore provided for is not deposited, a bill in equity may be filed in court, in term time or vacation, by the person whose property is taken praying for an injunction against the use or occupation of his property taken. If proceedings for an estimation of damages are not commenced within three years, and the owner of the property files a bill praying therefor, the court may estimate the damages, decree their payment, and issue an execution

therefor; and the plaintiff shall be entitled to a bill for an injunction. In either case, any justice of the court, after summary notice to the taker 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 shall be entered, service of it made, and continued at the next term 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 property cease, and the owner may maintain an action for its recovery and protection.

See c. 94, § 113.

Sec. 20. Service of injunction. R. S. c. 61, § 20. Service of an injunction issued against any person, whether a party to the bill or not, may be made upon him and he shall be liable to all the penalties and consequences provided for a breach of it. The court may order persons violating such injunction, after service, or using the property, 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. 21. Failure to apply for assessment not a waiver. R. S. c. 61, § 21. No failure by the owner of the property to make application for the assessment of damages within said three years shall be held to be a waiver by him of compensation for property so taken.

Sec. 22. Proceedings to cure defect in taking under eminent domain. R. S. c. 61, § 22. Whenever any taking or attempted taking under power of eminent domain shall, in any action now pending or hereafter commenced, have been adjudged defective either from formal errors in proceedings or through failure to provide, in an act expressly conferring the right of eminent domain, for any act or proceeding necessary to carry out such taking, which failure shall be deemed a substantial error by a court of last resort in this state, and judgment of title in the plaintiff shall be given, judgment of ouster or writ of possession shall be stayed until the corporation vested with the power of eminent domain shall have had opportunity to retake pursuant to the act conferring the power, if the error is formal, and until remedial legislation shall have been obtained at a session of the legislature next after the rendition of judgment when the error is substantial, and a new taking had pursuant to the amended act; but the new taking shall be had within ninety days from the rendition of said judgment when the error is merely formal, and within six months from the adjournment of the legislature next after the rendition of judgment when the error is substantial. And nothing herein contained shall preclude or stay any action at law for damages, and the owner of the land may maintain an action for damages the same as if in possession.

Condemnation Proceedings by Water Districts.

Sec. 23. Necessity of taking may be determined. R. S. c. 61, § 23. The owner of property which is the subject of appropriation for public purposes by any water district may, upon hearing, have the necessity of the particular appropriation determined.

*124 Me. 63.

Sec. 24. Proceedings. R. S. c. 61, § 24. The owner of such property may, within thirty days after the beginning of condemnation proceedings, file in the office of the clerk of courts of the county where the property is situated, a peti-

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tion to the supreme judicial court, for a decision as to the necessity of the appropriation. A copy of the petition and order of notice thereon, attested by the clerk, shall be served upon the respondent. Any justice of the supreme judicial court, in term time or vacation, upon such petition, may appoint three disinterested commissioners, residents of the county in which the property is situated, one of whom shall be learned in sanitary matters, to determine the necessity of the particular appropriation.

124 Me. 63.

Sec. 25. Proceedings before commissioners. R. S. c. 61, § 25. The commissioners shall fix a time for hearing, and give written notice thereof to the owner and to the district seeking to acquire said property. At the hearing all parties in interest shall be heard either in person or by attorney, and witnesses may be summoned by either party and attendance compelled as before other judicial tribunals; the burden of proof to show the necessity of the particular taking shall rest upon the party seeking to acquire the property. The decision of a majority of the commissioners shall be final as to questions of fact. The prevailing party shall recover costs as in actions at law in the supreme judicial court, and execution shall issue therefor.

Sec. c. 95, § 120; 124 Me. 63.

Sec. 26. Condemnation proceedings by district. R. S. c. 61, § 26. Upon the commencement of condemnation proceedings, the district seeking to thus acquire property, unless otherwise provided by law, may file a petition asking that the necessity of such taking may be determined, whereupon proceedings shall be had as in the case of a petition by the landowner.

124 Me. 63.

Sec. 27. Certain proceedings valid. R. S. c. 61, § 27. All plans and descriptions of land and all descriptions of other property taken by any water company for its purposes and uses, filed in the office of the county commissioners of the county where the land or other property taken is situated prior to the ninth day of March, eighteen hundred and eighty-nine, are valid and legal for all purposes of taking.

124 Me. 64.

Note. Provisions for weekly payment of wages apply to water companies, c. 53, § 39. Limitation of proceedings to recover damages for land taken by right of eminent domain, c. 94, § 113.
Malicious injury of property of water companies, c. 139, § 4.
Pollution of water supply, c. 140, § 1.

CHAPTER 70.

Corporations Without Capital Stock.

Sec. 1. Organization. R. S. c. 62, § 1. 1919, c. 48. 1921, c. 101. 1923, c. 3. 1925, c. 74. When seven or more persons desire to be incorporated as proprietors of a social, military, literary, scientific, or county law library; as a Masonic lodge or chapter of any order or degree; as a Masonic association consisting of members of different orders or degrees; as a lodge of the Independent Order of Odd Fellows; as a lodge of the Knights of Pythias; as a tribe of the Improved Order of Red Men; as a division of the Sons of Temperance; as a tent of the Rechabites; as a grange of Patrons of Husbandry; as a Council of the Sovereigns of Industry; as a lodge of the Benevolent and Protected Order of Elks; as a Grand Army Post; as an American Legion Post, as a relief or benefit association for mutual assistance; as a monument or memorial association; as a society to pro-

mote temperance; as a village improvement society; as an association for the promotion of good municipal government; as a chamber of commerce or board of trade; as a yacht club; or for the purpose of preserving and maintaining a family homestead and the rights of descendants and of members of the family therein; or for any literary, scientific, musical, charitable, educational, social, military, agricultural, moral, religious, or benevolent purpose; they may apply in writing to any justice of the peace in the county, who may issue his warrant, directed to one of said applicants, requiring him to call a meeting thereof at such time and place as the justice may appoint.

90 Me. 410; 91 Me. 255; 94 Me. 400; 98 Me. 176; 104 Me. 329; 114 Me. 158.

Sec. 2. Notice of meeting. R. S. c. 62, § 2. Such applicant 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, for two weeks successively, the first publication to be at least fourteen days before the day of meeting.

94 Me. 400.

Sec. 3. Organization and powers. R. S. c. 62, § 3. When assembled pursuant to the warrant, they may organize themselves into a corporation, adopt a corporate name, and they, their associates and successors may have continual succession; have a common seal; elect all necessary officers; adopt by-laws, not inconsistent with law, and enforce the same by suitable penalties; have the same rights and be under the same liabilities, as other corporations, in prosecuting and defending suits at law; and enjoy all other rights, privileges, and immunities of a legal corporation.

94 Me. 400.

Sec. 4. Certificate recorded in registry of deeds and secretary of state's office. R. S. c. 62, § 4. 1917, c. 85. Before commencing business, the president, treasurer, and a majority of the directors or trustees of every corporation organized under the foregoing sections shall prepare a certificate setting forth the name and purposes of the corporation, the town where located, the number and names of the officers, 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 said corporation is located, in a book kept for that purpose, and within sixty days after the day of the meeting at which such corporations is organized, a copy thereof certified by such register shall be filed in the secretary of state's office, who shall enter the date of filing thereon, and on the original certificate to be kept by the corporation, and shall record said copy in a book kept for that purpose.

Sec. 5. Power to hold property. R. S. c. 62, § 5. 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.

90 Me. 410

Sec. 6. Charitable corporations, suits by or against. R. S. c. 62, § 6. 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.

95 Me. 497.

Sec. 7. Use of name of state in title forbidden, under penalty of forfeiture of

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appropriation. R. S. c. 62, § 7. 1919, c. 139. No charitable institution or association of a private or of a semi-public nature, incorporated by special act of the legislature or organized in conformity with section one of this chapter after the eleventh day of July, one thousand nine hundred and thirteen, shall use the name of the state in its title. Provided, however, that the members of any existing voluntary association established prior to said day and theretofore using the name of the state in its title, may, subsequent to said day, incorporate under the same title in conformity with said section one. If, upon complaint by any person, the governor and council, after notice and hearing, find that any institution or association has violated the provisions of this section, such institution or association shall forfeit its right to any appropriation from the state.

Sec. 8. Protection of certain corporations or organizations in use of names and emblems; prior and exclusive use of names. R. S. c. 62, § 8. No person, society, association, or corporation shall assume, adopt, or use the name of a benevolent, humane, fraternal, or charitable organization, incorporated under the laws of this state, or any other state, or of the United States, or holding its charter or warrant under some recognized supreme grand body having authority to issue the same, or a name so nearly resembling the name of such incorporated or chartered organization as to be a colorable imitation thereof, or calculated to deceive persons not members, with respect to such organization. In all cases where two or more such societies, associations, corporations, or organizations claim the right to the same name, or to names substantially similar as above provided, the organization which was first organized and used the name, or first became incorporated under the laws of the United States or of any state, shall be entitled in this state to the prior and exclusive use of such name, and the rights of such societies, associations, corporations, or organizations and of their individual members shall be fixed and determined accordingly.

Sec. 9. Badge, button, emblem, decoration, etc., not to be worn, or name assumed, without authority; proviso. R. S. c. 62, § 9. 1917, c. 103. No person shall wear or exhibit the badge, button, emblem, decoration, insignia, or charm, or shall assume or use the name of any benevolent, humane, fraternal, or charitable corporation, incorporated under the laws of this state, or any other state, or of the United States, or holding its charter or warrant under some recognized supreme grand body having authority to issue the same, or shall assume or claim to be a member thereof, or of a benevolent, humane, fraternal, or charitable corporation or organization, the name of which shall so nearly resemble the name of any other corporation or organization existing prior to the organization of the corporation, organization or association of which such person may claim to be a member, the name whereof may be calculated to deceive the people with respect to any such prior corporation or organization, unless he shall be authorized under the laws, statutes, rules, regulations, and by-laws of such former corporation or organization to wear such badge, button, emblem, decoration, insignia, or charm, or to use and assume such name as a member thereof. Provided however that nothing in this chapter shall be construed to forbid the use of such badge as a measure of protection, by the wife [affianced wife], mother, sister or daughter, of any man entitled to wear the same.

See c. 138, § 10.

Sec. 10. Court may issue injunction restraining violation. R. S. c. 62, § 10. Whenever there shall be an actual or threatened violation of the two preceding sections, the supreme judicial court shall have jurisdiction to issue an injunction, upon notice to the defendant of not less than five days, restraining such actual or threatened violation, and if it shall appear to the court that the defendant is in

fact using the name of a benevolent, humane, fraternal, or charitable corporation or organization, incorporated or organized as aforesaid, or a name so nearly resembling it as to be calculated to deceive the public, or is wearing or exhibiting the badge, insignia, or emblem of such corporation or organization without authority thereof, and in violation of the two preceding sections, an injunction may be issued, enjoining or restraining such actual or threatened violation, without requiring proof that any person has in fact been misled or deceived thereby.

See c. 90, § 6.

Sec. 11. Penalty. R. S. c. 62, § 11. Whoever violates sections eight or nine of this chapter shall be punished by fine not exceeding fifty dollars, or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment.

See c. 138, § 10.

Note. Any corporation, board of trustees, unincorporated body or association, holding funds or property for any religious, moral, educational or benevolent purpose, may transfer said property to any other corporate body or trustees existing for similar purposes, c. 20, § 34.

County Law Libraries.

Sec. 12. County law library association, how organized. R. S. c. 62, § 12. 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 in some conspicuous part of the court-house seven days previous to their meeting, is sufficient; 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 sworn, and hold their offices during the pleasure of the corporation; they may make all necessary and lawful regulations; and at their meetings, the oldest member present shall preside.

Sec. 13. Duties of treasurer and clerk. R. S. c. 62, § 13. 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 gifts, to form a law library under the appointed regulations; and the clerk shall keep an exact record of all their proceedings.

See c. 16, § 9.

Sec. 14. Accounts of treasurer. R. S. c. 62, § 14. The treasurer shall keep an exact account of all moneys, gifts, 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, before the second Wednesday in January, deposit in the office of the treasurer of state a statement of the funds received by the corporation during the year preceding.

Proprietors of Lands and Wharves.

Sec. 15. Warrant for calling meetings, to whom directed. R. S. c. 62, § 15. When any five, or a majority, of the proprietors of lands or wharves, held in common, desire a meeting of the proprietors for the purpose of forming a corporation, or for any other purpose, they may make written application signed by them or their agents, to any justice of the peace residing in the county in which the lands or wharves are situated; said justice shall thereupon issue his warrant 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.

Sec. 16. Modes of giving notice. R. S. c. 62, § 16. If the lands lie in one or more incorporated towns, a notice in writing shall be posted 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, 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. 17. Officers, and calling of future meetings. R. S. c. 62, § 17. At such meeting, such proprietors as assemble in person or by attorney may organize into a corporation if not already so organized, choose a moderator, clerk, treasurer, assessors, collector of taxes, committees, and other needful officers; and may by vote decide upon the manner of calling and notifying future meetings.

18 Me. 215; 26 Me. 549.

Sec. 18. Officers to be sworn. R. S. c. 62, § 18. The clerk, treasurer, assessors, and collector, shall be sworn by the moderator or a justice of the peace, and the clerk shall record the votes passed at all meetings.

26 Me. 553; 53 Me. 233.

Sec. 19. Business must be specified in warrant; how votes are to be counted. R. S. c. 62, § 19. No business shall be acted upon at any meeting, unless 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 disposal 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 offense, to be disposed of as they direct.

Sec. 20. Prosecution and defense of actions. R. S. c. 62, § 20. The proprietors may prosecute and defend suits by their agent, and the certificate of the proprietors' clerk is evidence of such agency.

37 Me. 44.

Sec. 21. Raising and assessment of moneys; publication. R. S. c. 62, § 21. At any legal meeting, they may raise 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 notified.

Sec. 22. Payment may be enforced by sale. R. S. c. 62, § 22. If any proprietor neglects to pay his assessment to the treasurer, collector, or committee, for six months, if he resides in the state, otherwise for twelve months, then the committee may, from time to time, sell at auction so much of his right in the common lands, as is sufficient to pay his tax and the reasonable charges of sale, after notice thereof, posted as aforesaid, and published in two of the newspapers before named five weeks successively next before the time of sale; and may give deeds thereof in fee to the purchaser.

4 Me. 248; 5 Me. 348; 7 Me. 408.

Sec. 23. Right of redemption. R. S. c. 62, § 23. 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.

Sec. 24. Treasurer's powers and duties. R. S. c. 62, § 24. 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 their pleasure.

Sec. 25. Management of property; proxies. R. S. c. 62, § 25. A majority of proprietors present at any legal meeting, may order, manage, improve, divide, or dispose of their lands as they choose; and may vote in person, or by attorney appointed in writing.

48 Me. 526; 118 Me. 4.

Sec. 26. Proprietors' records, how preserved. R. S. c. 62, § 26. 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 lies; 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 until the records are so deposited.

53 Me. 233.

Sec. 27. Certain corporate powers continued for ten years after final division. R. S. c. 62, § 27. Such a final division shall not dissolve the corporation until ten years thereafter; but the last proprietors in common and their heirs shall continue in their corporate capacity, for the collection and payment of 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.

Sec. 28. Money may be raised for highways. R. S. c. 62, § 28. The owners of an unincorporated township or tract may call meetings to raise money, for making and repairing highways lawfully laid out, and to choose officers to assess and collect it.

See c. 27, § 50.

CHAPTER 71.

Mills and Their Repairs.

Sec. 1. Manner of calling a meeting of mill owners. R. S. c. 63, § 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 partly in two counties, to a justice of the peace 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 such 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 is binding on all the owners.

31 Me. 35; 57 Me. 103; *81 Me. 358.

Sec. 2. Owners of half or more may repair or rebuild. R. S. c. 63, § 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 so far as to make them serviceable; and shall be reimbursed out of said mill or its profits, what they advanced therefor beyond their proportions, with interest in the meantime.

11 Me. 172; 53 Me. 553.

Sec. 3. Reimbursement. R. S. c. 63, § 3. If they are not reimbursed 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,

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from the end of six months until so reimbursed; and if a delinquent owner dies, or alienates his interest in the premises, the advancing owners have a continuing lien thereon for reimbursement; but no special contract, made by the owners, respecting the building or repair of such mill or dam, is hereby affected.

53 Me. 553; 81 Me. 360.

Sec. 4. Proceedings, if a part owner is a minor, or otherwise disqualified. **R. S. c. 63, § 4.** Where any part of such mill or dam, at the time of meeting and notice, is owned by minors, tenants, by courtesy, in tail, for life or years, or by mortgagor or mortgagee, the guardians of such minors, such tenant, mortgagor, or mortgagee shall be deemed, for the purposes of this chapter the proprietors thereof, and shall be notified, vote, and contribute accordingly; and all advances so made by them, if not paid, may be recovered in a special action on the case, with interest.

Sec. 5. Owners of grist mills to furnish scales for weighing grain; order of grinding; penalty. **R. S. c. 63, § 5.** The owner or occupant of every grist mill shall keep scales and weights therein to weigh corn, grain, and meal, when required; and he shall well and sufficiently grind as required, according to the nature, capacity and condition of his mill, all grain brought to his mill for that purpose, and in the order in which it shall be received; and for neglecting or refusing to weigh the same when required, or failing to grind the same in the order received, or for taking more than lawful toll, he shall be fined for each offense not less than ten, nor more than fifty dollars; provided, that this section shall not be so construed as to preclude the right of any owner or occupant of any mill to enter into any mutual agreement with any customer or customers as to the order in which the grain of such customers shall be received and ground, made at the time said customer or customers shall bring his or their grain to the mill for the purpose of being ground.

*86 Me. 103.

Sec. 6. Tolls. **R. S. c. 63, § 6.** The toll for grinding, cleansing and bolting all kinds of grain, shall not exceed one-sixteenth part thereof.

*86 Me. 103.