

# MAINE STATE LEGISLATURE

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THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED APRIL 17, 1857;

TO WHICH ARE PREFIXED  
THE CONSTITUTIONS

OF THE  
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN  
APPENDIX.

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PUBLISHED BY AUTHORITY OF THE LEGISLATURE.

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BANGOR:  
WHEELER & LYNDEN.

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1857.

and remove a steam engine, erected without license, as is given to the health committee or health officer in chapter fourteen for the removal or discontinuance of the nuisances therein mentioned.

SEC. 17. No person or corporation shall use or cause to be used any steam boiler in this state, unless it is provided with a fusible safety plug, made of lead or some other equally fusible material, not less than half an inch in diameter, which shall be placed in the roof of the fire-box, when a fire-box is used; and in all cases, shall be placed in a part of the boiler fully exposed to the action of the fire, and as near the top of the water line, as any part of the fire surface thereof; and for this purpose it shall be lawful to use Ashcroft's "protected safety fusible plug."

SEC. 18. If any person without just and proper cause removes from the boiler the safety plug, or substitutes any material more capable of resisting the action of the fire, or if any person or corporation uses or causes to be used, for six consecutive days, a steam boiler unprovided with such safety fusible plug, the offender shall be punished by a fine not exceeding one thousand dollars.

SEC. 19. Persons engaged in blasting lime-rocks or other rocks, before each explosion shall give seasonable notice thereof, so that all persons or teams approaching shall have time to retire to a safe distance from the place of said explosion; and no such explosion shall be made after sunset.

SEC. 20. Whoever violates the provisions of the preceding section, shall pay five dollars for each offence, in an action of debt to the use of the person suing therefor, and all damages caused by any explosion; and if the persons engaged in blasting rocks are unable, or after judgment and execution, avoid payment of the fine, damages and costs, by the poor debtors' oath, the owners of the quarry, in whose employment they were, shall be liable for the same.

SEC. 21. When the construction or extension of a wharf in tidal waters in any city is desired by the permission of the city authorities, they shall require the applicant to give fourteen days notice thereof by publication in two newspapers before acting upon it.

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Power of town officers to remove such engine.

1846, c. 191, § 4.

Steam boilers to be provided with fusible safety plug.

1850, c. 189, § 1.

Penalty for removing such plug, or using steam boiler without such plug.

1850, c. 189, § 2, 3.

Blasting rocks; notice to be given.

1852, c. 257, § 1.

Violation, penalty for.

1852, c. 257, § 2.

Notice for construction of wharves.

1856, c. 215.

### CHAPTER 18.

#### WAYS.

##### LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

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35. On appeal, committee appointed, proceedings. No person appearing, judgment of commissioners may be affirmed.
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37. Ways to be kept open and in repair. Penalty.
38. Ways between towns, how divided. Liability of towns.
39. Same. Commissioners may make and record division.
40. Municipal officers to assign limits to surveyors by April tenth. When surveyors, municipal officers may delegate their powers.

SEC. 41. Towns to raise money. Lists delivered to surveyors by May tenth, and two-thirds expended by July first.

42. Surveyors' duties.
43. Snow trodden down; sudden injuries repaired.
44. Mail routes, apparatus to be kept for opening.
45. Surveyors make return of delinquents to assessors.
46. Trees may be planted.
47. Materials may be taken from lands not enclosed or planted.
48. Water courses not to be made to do injury. Remedy.
49. Streets raised or lowered, injury how compensated.
50. When surveyors may expend more than taxes.
51. Towns may cause assessments for bridges and ways as for other expenses.
52. Wide wheels, and watering troughs, abatement for.
53. Ways may be opened and repaired by contract, tax collected, if not paid.
54. Surveyors to exhibit bills to selectmen July 1.
55. Surveyors to pay balance in their hands to treasurer.
56. Road commissioners may be chosen, duties.
57. Road commissioners, powers and duties.
58. Non-residents and absentees, how notified.
59. Taxes of delinquents, how collected.
60. Towns may allow discount for money. Commissioner to give bond, keep accounts.
61. Injuries occasioned by defects in ways.
62. Repair within six years, proof of way.
63. No liability when weight of load exceeds six tons.
64. One indictment only at a term, highway includes other ways.
65. Surveyors responsible for defects in case of neglect.
66. Fines, appropriated for repairs of ways; agents to expend; their duties.
67. Fines certified by clerk of courts to assessors; their duties; fines, how collected.
68. Fines to be collected if way is not repaired in four months.
69. Gates, bars, and fences on ways may be removed. Person aggrieved may have remedy.
70. Logs and lumber to be removed by surveyors, proceedings. Person by whose neglect left, to be liable.
71. Persons convicted of placing nuisance, to pay, when materials do not.
72. Buildings and fences existing twenty and forty years, effect.
73. Guide posts, duties of selectmen; places designated to be recorded.
74. Guide posts, how and where erected. May be substitutes. Penalty for neglect. Plantations obligated as towns.
75. Excavations near ways, how to be made; responsibilities respecting them by persons and towns.
76. Ice bridges may be made and protected; consent of land owners to be first obtained.

#### REPAIR OF PRIVATE WAYS OWNED IN COMMON.

77. Owners of private ways and bridges may call meetings, choose clerk and surveyor.
78. Surveyors' duties, penalty for neglect of owners to pay.
79. Owners may make contracts for repairs, cause money to be assessed and collected as taxes for highways.
80. Penalties, how appropriated, process to collect them; not abated by death of owners.

#### LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

SEC. 1. County commissioners have power to lay out, alter, or discontinue highways leading from town to town. Responsible persons may present, at their regular sessions, a written petition, describing a way and stating whether its location, alteration,

Commissioners' power; petition how framed.  
8 Greenl. 292.  
26 Maine, 353.

CHAP. 18.  
R. S., c. 25, § 1.

or discontinuance is desired, or an alternative action, in whole or in part. The commissioners may act upon it, conforming substantially to the description without adhering strictly to its bounds.

Notice, how  
given, proved  
and recorded.  
30 Maine, 302.  
R. S., c. 25, § 2.

SEC. 2. Being satisfied, that the petitioners are responsible, and that an inquiry into the merits is expedient, they shall cause thirty days notice to be given of the time and place of their meeting, by posting copies of the petition, with their order thereon, in three public places in each town, in which any part of the way may be, and serving one on the clerks of such towns, and publishing it in some newspaper, if any, in the county. The fact that notice has been so given, being proved and entered of record, shall be sufficient for all interested and evidence thereof.

Costs paid by  
petitioners on  
failure.  
R. S., c. 99,  
§ 12.

SEC. 3. When their decision is against the prayer of the petitioners, they shall order them to pay to the treasurer of the county, at a time fixed, all expenses incurred on account of it; and if they are not then paid, they shall issue a warrant of distress against the petitioners therefor.

Duties of com-  
missioners at  
hearing; and  
laying out or  
altering way.  
2 Greenl. 50.  
12 Maine, 210.  
19 Maine, 313.  
23 Maine, 9,  
511.  
35 Maine, 373.  
R. S., c. 25,  
§ 3, 4.  
1852, c. 221, § 1.

SEC. 4. They shall meet at the time and place appointed and view the way, and there, or at a place in the vicinity, hear all parties interested. If they judge, the way to be of common convenience and necessity, or that an existing way shall be altered or discontinued, they shall proceed to perform the duties required; make a correct return of their doings, signed by them, accompanied by an accurate plan of the way; and state in their return when it is to be done, the names of the persons to whom damages are allowed, the amount allowed to each, and when to be paid. When the way has been finally established, they shall cause durable monuments to be erected at the angles thereof.

Return, when  
made, disposi-  
tion of it.  
Petitions for  
increase of  
damages, when  
presented.  
33 Maine, 237.  
28 Maine, 121.  
R. S., c. 25, § 5.

SEC. 5. Their return, made at their next regular session after the hearing, is to be placed on file, and to remain in the custody of their clerk for inspection without record. The case is then to be continued to their next regular term; when, or before then, all persons aggrieved by their estimate of damages, shall present their petitions for redress. If no such petition is then presented or pending, the proceedings shall be closed, recorded, and become effectual; and all claims for damages not allowed by them be forever barred; and all damages awarded under the first seventeen sections, shall be paid out of the county treasury.

Proceedings  
before and  
after decision,  
respecting  
increase of  
damages.  
R. S., c. 25,  
§ 21.

SEC. 6. When a petition for increase of damages is presented within the time allowed, the case is to be further continued until a final decision respecting damages is made. If they then are of opinion that their proceedings ought not to take effect subject to such damages as have been assessed, they shall enter a judgment that the prayer of the petitioners is not granted for that reason. Upon such judgment no damages are to be allowed; but the costs are to be paid by the county. If they are of opinion that the increase of damages should not prevent a confirmation of their proceedings, judgment is to be entered accordingly; and the whole proceedings are to be recorded and become effectual.

SEC. 7. Payment of damages may be suspended until the land, for which they are assessed, is taken. They are to be allowed to the owners of reversions, and remainders, and to tenants for life, and for years, in proportions to their interests in the estate taken.

SEC. 8. When a petition is presented for an increase of damages, an agreement may be made and entered of record to submit the matter to a committee, who shall notify and hear the parties and make return of their decision, which being accepted, shall be conclusive. When no such agreement is made, a jury is to be summoned, whose verdict, returned, accepted, and recorded, is conclusive. The committee or jury may decide upon the title of any petitioner, so far as it respects damages.

SEC. 9. Persons may join or sever in such petitions, presented on account of the same way; and when several such petitions are pending they may all be ordered to be submitted to the same jury; and the costs may be equitably apportioned. Petitions are not abated by the death of the petitioners. The survivors may continue to prosecute; those interested in the estate taken may appear and become parties, or may enter their acceptance of the damages awarded. These provisions apply also to petitions for increase of damages respecting streets in cities.

SEC. 10. When a jury is required, a warrant is to be issued to a proper officer requiring him to notify the parties named in it, and to summon a jury of twelve men, making application to the municipal officers of two or more towns in the county, in which no part of the land taken is situated, who shall draw from the jury box as many jurors as are required, not exceeding nine from one town. Jurors shall be drawn, summoned, and returns thereof made, as in other cases, except that notice to them need not be given more than twenty-four hours before the time for their attendance. When a full jury is not obtained from those drawn, on account of interest or absence, the officer attending may return talesmen.

SEC. 11. When a county is liable for damages, the county attorney is to be notified by such committee or officer, and is to appear in behalf of the county before such committee or jury at the time and place of hearing.

SEC. 12. The commissioners may appoint a person to preside at the view and hearing, who shall be sworn, and allowed a compensation to be determined as hereinafter provided. When no person is appointed, or when the person appointed is absent, the officer who summoned the jury is to preside. The person presiding is to administer an oath to the jurors, for the faithful discharge of their duties; to swear the witnesses; to keep order and direct the course of the proceedings; to decide all questions of law arising on the trial which would be proper for the decision of a judge; to instruct the jury upon any question of law when requested by either party; and to certify to the court with the verdict, the substance of any decision or instruction by him given, when any party shall request it.

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Damages when to be paid; to whom awarded.

R. S., c. 25, § 7.  
1854, c. 92, § 1.

Petition for increase of damages.

Committee agreed or jury called, title may be decided.

12 Maine, 219.

21 Maine, 399.

R. S., c. 25, § 8.

May join in such petitions, which are not abated by death.

Those interested may become parties.

R. S., c. 25,

§ 9, 10, 11.

1852, c. 277.

Jury, how summoned.

Parties notified.

R. S., c. 25,

§ 8, 13.

County attorney to be notified and be present.

R. S., c. 25,

§ 15.

Commissioners may appoint person to preside, who shall be sworn.

Jurors and witnesses to be sworn.

Duties of person presiding.

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Proceedings  
of jury.

Officer's duty.

Proceedings in  
supreme court  
on verdict.

Clerk of court  
to certify to  
commission-  
ers.

Proceedings  
when no ver-  
dict.

Costs, how  
adjusted.  
1857, c. 171.

Time allowed  
for removing  
growth, for  
payment of  
damages, for  
making the  
way.

8 Greenl. 137.  
36 Maine, 551.  
39 Maine, 113.  
R. S., c. 25,  
§ 20.

Way discon-  
tinued before  
payment of  
damages,  
proceedings.  
R. S., c. 25,  
§ 22.

Petitions re-  
specting ways  
in two or more  
counties, pro-  
ceedings on  
them.

Notices.  
R. S., c. 25,  
§ 23, 24.

Proceedings of  
commissioners

SEC. 13. The jury are to view the premises; hear the testimony and the arguments of the parties or their counsel; and render a verdict signed by all of them, which is to be enclosed in an envelope with an endorsement thereon stating the contents, and is to be delivered to the officer having charge of them, who is to return it to the supreme judicial court, at the next term thereof to be held in the same county, with his doings, stating his own travel and attendance and that of each juror. Said court shall receive said verdict and certificate of the person presiding, and adjudicate thereon, and may confirm the verdict, or set it aside for good cause, reserving the right to except as in other cases; and if the matter is determined by a committee, as provided in this chapter, their report shall be made to the next term of said court held in that county, and like proceedings shall be had thereon as on a verdict returned, as aforesaid. The clerk of said court shall certify such verdict, or report, as the case may be, with the final adjudication of the court thereon, to the commissioners at their next meeting after such adjudication, who shall record the same; and if the jury shall not have agreed on a verdict, or the verdict or report been set aside by the court to which it was returned, or upon exception, the commissioners, on application therefor, shall order a new jury, or the parties may agree upon a new committee; and thereupon like proceedings shall be had as are herein provided. The party prevailing shall recover costs, to be taxed and allowed by the court to which the verdict or report is returned and certified with it to the commissioners; and said court shall determine the compensation of the committee and of the persons presiding at the trial by jury.

SEC. 14. The owners of lands taken are allowed one year after the proceedings are finally closed to take off timber, wood, or any erection thereon. A time not exceeding three years is to be allowed for making and opening the way.

SEC. 15. When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order for payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as before stated.

## WAYS IN TWO OR MORE COUNTIES.

SEC. 16. When a petition is presented respecting a way in two or more counties, the commissioners, being satisfied as aforesaid, may call a meeting of the commissioners of the counties, to be held at a time and place named, by causing an attested copy of such petition and of their order thereon, to be served upon their chairman; and they shall give notice of such meeting by causing a like copy to be published in the state paper and in one paper, if any, printed in each such county, and by posting it in three public places in each town interested, and serving it on the clerk thereof. These notices are to be posted, served, and published thirty days before the time of meeting.

SEC. 17. Each county must be represented at such meeting by a majority of its commissioners. A majority of those present

may decide upon the whole matter. The duty of carrying that judgment into effect, is to be performed in each county by its own commissioners in the manner respecting ways wholly within it. When each county is not so represented, those present may adjourn the meeting to another time.

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on such petitions, continued and closed.  
25 Maine, 291.  
R. S., c. 25,  
§ 25, 26.

## TOWN AND PRIVATE WAYS.

SEC. 18. The municipal officers of towns may personally or by agency lay out, alter, or widen town ways, and private ways, for one or more of its inhabitants, or for owners of cultivated land therein, on petition therefor. They shall give written notice of their intentions, to be posted for seven days, in two public places in the town and in the vicinity of the way, describing it in them.

Power of municipal officers respecting town and private ways.  
Notice given.  
12 Maine, 32.  
18 Maine, 344.  
21 Maine, 169.  
26 Maine, 172.  
R. S., c. 25,  
§ 27, 28.

SEC. 19. A written return of their proceedings, containing the bounds and admeasurements of the way, and the damages allowed to each person for land taken, is to be made and filed with the town clerk. The way is not established, until it has been accepted in a town meeting legally called afterwards, by a warrant containing an article for the purpose.

Municipal officers lay out, town accepts.  
10 Maine, 24.  
3 Greenl. 438.  
30 Maine, 19.  
R. S., c. 25,  
§ 28, 29.

SEC. 20. A town, at a meeting called by warrant containing an article for the purpose, may discontinue a town or private way; and the municipal officers shall estimate the damages suffered by any person thereby. It may, by an ordinance, set off portions of its ways or streets as sidewalks, and require them to be kept clear of snow and other obstructions; and may authorize trees to be planted by their side.

Towns may discontinue town and private ways; establish side walks, plant trees.  
23 Maine, 123, 125.

SEC. 21. The damages for a town way are to be paid by the town; for a private way, by those for whose benefit it was stated in the petition to be, or wholly or partly by the town, if under an article in the warrant to that effect it votes to do so, at the meeting accepting such private way, or by cities, if it is proposed in the return laying out such way. Any person aggrieved by the estimate of damages, on petition to the commissioners, may have them assessed in the manner provided respecting highways.

R. S., c. 25,  
§ 30.  
1855, c. 149, § 1.  
Damages how estimated and paid.  
11 Maine, 422.  
17 Maine, 199.  
R. S., c. 25,  
§ 31.  
1857, c. 6.

SEC. 22. When the municipal officers unreasonably neglect or refuse to lay out or alter a town way, or a private way on petition of an inhabitant, or of an owner of land therein for a way leading from such land under improvement to a town or highway, the petitioner therefor may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who are to give notice thereof to all interested, and proceed to act thereon as is provided respecting highways. Their decision, returned and recorded, is to be conclusive; allowing those aggrieved by their estimate of damages a right to have them assessed by a committee or jury as is provided respecting highways. The damages, and the costs if the damages are increased, are to be paid by those liable if no such application had been made; and the commissioners may issue a warrant of distress to collect the same.

Selectmen unreasonably refusing, proceedings.  
8 Greenl. 271.  
10 Maine, 24.  
13 Maine, 210, 271.  
31 Maine, 267, 578.  
R. S., c. 25,  
§ 32.

SEC. 23. When a town unreasonably refuses to discontinue a town or private way, or to accept one laid out or altered by the

Towns unreasonably refusing to accept

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or to discontinue.

10 Maine, 24.  
13 Maine, 210,  
271.

25 Maine, 69.  
36 Maine, 74.

30 Maine, 19.  
R. S., c. 25,

§ 33, 34.

Petitions for increase of damages; when filed, proceedings.

28 Maine, 121.  
R. S., c. 25,

§ 36, 37, 38.

Town ways laid out or discontinued by commissioners, not affected by doings of town for a time.

R. S., c. 25,

§ 35.

1855, c. 162.

Time to be fixed for a discontinuance by commissioners.

Way not opened in 6 years, discontinued.

R. S., c. 25,

§ 41, 42.

Ways to be opened by agent of commissioners when towns neglect.

Expenses, how paid.

7 Greenl. 88,  
98.

37 Maine, 112.  
37 Maine, 553.

R. S., c. 25,

§ 40.

Plantations liable as towns and have same powers.

R. S., c. 25,

§ 43.

selectmen, the parties thereby aggrieved may, within the time, and in the manner stated in the preceding section, present a petition to the commissioners, who shall in like manner proceed and act thereon, and cause their proceedings to be recorded by their own and by the town clerk; and the rights of all parties may be preserved and determined as provided in that section.

SEC. 24. In petitions for increase of damages on account of such ways, the like proceedings may be had, and the rights of the parties may be determined, as provided for like purposes respecting highways. When it appears by the reports of municipal officers, by the records of towns, or by the records of commissioners, that notice was not given as required, such petitions may be filed with the clerk of the commissioners within two years after a final decision.

SEC. 25. When a town way has been laid out or altered by the commissioners, their proceedings cannot be affected by any action of the town within five years; and when one has been discontinued by them, it cannot be again laid out by the town within two years. The commissioners have the same power to alter or discontinue such ways for five years, as they have respecting highways.

## WHEN WAYS ARE TO BE OPENED.

SEC. 26. When a town, private, or highway, is wholly or partly discontinued by the commissioners, a time is to be fixed for it. And when laid out by them the way is to be regarded as discontinued, if not opened within six years from the time allowed therefor.

SEC. 27. When a town or highway is not opened and made passable by the town liable, within the time prescribed therefor by the commissioners, they may, after notice to the town, cause it to be done by an agent, not one of themselves, on petition of those interested. The agent shall make a written contract therefor and file a copy of it in the clerk's office; and the commissioners shall forthwith certify to the assessors of the town interested, the time when such contract is to be completed, and the amount to be paid therefor. They may examine the doings of their agent, and at pleasure remove him and appoint another. His account is not to be allowed without notice first given to the town. When the contract has been completed and the accounts allowed, the town becomes liable to pay the amount expended, with the expenses of the agent for superintendence, and for procuring the allowance of his account. If the town neglects to pay for thirty days, a warrant of distress is to be issued by the commissioners to collect the same.

SEC. 28. Plantations required to assess a state or county tax, have the like powers and are subject to the like liabilities and penalties as towns respecting ways. Their assessors have the like powers and are to perform the like duties, as municipal officers of towns, respecting them.

## ACTIONS FOR DAMAGES AND COSTS.

## CHAP. 18.

SEC. 29. A person entitled to receive payment of damages or costs, after thirty days from demand on the treasurer of the county, or town, or on the party liable therefor, may recover them in an action of debt.

Damages, how recovered.

## WAYS IN PLACES NOT INCORPORATED.

SEC. 30. County commissioners on petition, as provided in section one, may lay out, alter, or discontinue, a highway on or over any township or tracts of land in their county, not within any town, or plantation required to assess a state or county tax. All expenses for making and opening it are to be paid by the owners of such lands, excluding lands reserved for public uses, in proportion to their interests in the lands, over any part of which it is laid.

Commissioners may lay out ways over lands not incorporated. Expenses by whom paid. 30 Maine, 351. R. S., c. 25, § 44.

SEC. 31. If they think there ought to be a hearing, they shall cause notice to be given of the time and place appointed therefor, by service of an attested copy of the petition with their order thereon, upon the owners of such lands, if known, fourteen days before that time, and if unknown, by a publication thereof in the state paper for six successive weeks, the last, thirty days before that time. No proceedings are to take place until it is proved that such notice has been given.

Notice of hearing, how given. 38 Maine, 492. R. S., c. 25, § 45. 1841, c. 11.

SEC. 32. After hearing the parties at the time and place appointed, they may proceed as provided in section four.

Ways, how laid out. R. S., c. 25, § 46.

SEC. 33. When a way is laid out over such lands, they shall decide whether any tract or part thereof will thereby be enhanced in value; and they may make as many divisions as are equitable, conforming as nearly as convenient to known divisions or townships; and assess upon each division adjudged to be enhanced in value a sum proportionate to the benefits likely to result to it from the establishment of the way. The assessments may be made at such rates per acre as they judge to be necessary for making and opening the way, and for paying the expenses attending it.

Expenses, how paid, for making. 17 Maine, 196. 30 Maine, 351. R. S., c. 25, § 47, 48.

## APPEALS TO THE SUPREME JUDICIAL COURT.

SEC. 34. Parties interested may appear jointly or severally at the time of hearing before the commissioners, on a petition for laying out, altering, or discontinuing any highway; and any such party may appeal from their decision thereon, at any time after it has been entered of record, and before the next term of the supreme judicial court in said county, at which term such appeal may be entered and prosecuted by him, or by any other party who so appeared. And all further proceedings before the commissioners are to be stayed until a decision is made in the appellate court.

Appeal may be made, how prosecuted. Proceedings stayed. 32 Maine, 452. 1847, c. 28, § 1, 2, 6. 1853, c. 54, § 1.

SEC. 35. If no person appears at that term to prosecute the appeal, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn,

On appeal, committee appointed, proceedings. 31 Maine, 444.

## CHAP. 18.

1847, c. 28,  
§ 3, 4, 5.  
1857, c. 152.

If judgment  
reversed, no  
further pro-  
ceedings, if  
not carried in-  
to effect;  
costs; com-  
mittee's com-  
pensation.  
32 Maine, 472.  
1847, c. 28,  
§ 4, 5, 7.

and if one of them dies, refuses to act, or becomes interested, the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the route, hear the parties, and make their report at the next or second term of the court after their appointment, whether the judgment of the commissioners should be in whole or in part affirmed or reversed; which, being accepted and judgment thereon entered, shall forthwith be certified to the clerk of the commissioners.

SEC. 36. If the judgment of the commissioners is wholly reversed, they shall proceed no further; and no petition praying for substantially the same matter shall be entertained by them for two years thereafter. If their judgment is affirmed in whole or in part, they shall carry into effect the judgment of the appellate court, as if made by them; and the party appealing or prosecuting shall pay the costs incurred since the appeal, if so adjudged by the appellate court, which may allow costs in such cases to the prevailing party, to be paid out of the county treasury. The compensation of the committee is to be the same as commissioners would have for like services, to be allowed by the court. The costs are to be collected as provided in section three.

## LIABILITY FOR REPAIR OF WAYS, AND FOR INJURIES.

Ways to be  
kept open and  
in repair.  
Penalty.  
5 Greenl. 254.  
18 Maine, 236.  
36 Maine, 393.  
37 Maine, 250.  
R. S., c. 25,  
§ 57.

Ways on line  
between  
towns, how  
divided.  
Liability of  
towns.  
R. S., c. 25,  
§ 58, 59.

Ways laid out  
between towns,  
how divided,  
repaired.  
R. S., c. 25,  
§ 60, 61.

Municipal of-  
ficers to assign  
limits to sur-  
veyors by April  
10, may dele-  
gate their pow-  
er when sur-  
veyors.  
R. S., c. 25,  
§ 63, 64.  
1853, c. 42, § 3.

SEC. 37. Highways, town ways and streets, legally established, are to be opened and kept in repair so that they are safe and convenient for travelers with horses, teams and carriages. In default thereof, those liable may be indicted, convicted, and a reasonable fine imposed therefor.

SEC. 38. When a way is established on a line between towns, their municipal officers shall divide it crosswise, and assign to each town its proportion thereof by metes and bounds, which, within one year thereafter being accepted by each town, at a legal meeting, shall render each town liable in the same manner, as if the way were wholly within the town; when a division of it is not so made, the selectmen of either town may petition the county commissioners, who are to give notice by causing a copy of such application with their order thereon, appointing a time and place of hearing, to be served upon the clerk of each town for thirty days, or by causing it to be published in some newspaper printed in the county for three weeks, previous to the time appointed; and after hearing the parties, they may make such division.

SEC. 39. A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

SEC. 40. When the municipal officers are appointed surveyors of highways by a town, they may in writing delegate their power or part of it to others. They shall, annually before the tenth day of April, make a written assignment of his division and limits to each surveyor of highways, to be observed by him.

SEC. 41. Each town shall annually raise money to be expended on the town and highways, to be assessed as other town charges. The assessors shall deliver to each surveyor, on or before the tenth day of May, a list of the persons and of the assessments on them to be expended within his limits. Two-thirds thereof are to be so expended before the first day of the next July.

CHAP. 18.

Towns raise money. Lists to surveyors by May 10; two thirds expended by July 1.  
R. S., c. 25, § 65, 66.  
1853, c. 42, § 4.  
Surveyors' duties.  
R. S., c. 25, § 67.

SEC. 42. Surveyors shall give reasonable notice, and in writing if required, to each person on his list resident in town, of the amount of his tax, and give forty-eight hours notice, extraordinary casualties excepted, of the times and places appointed for furnishing labor and materials at prices fixed by the town therefor, affording each an opportunity to work with his oxen, horses, cart, or plow, to the amount of his tax. The tax may be paid to the surveyor in money, who shall expend it faithfully for repairing the ways.

SEC. 43. When such ways within his limits are blocked up or incumbered with snow, the surveyor shall forthwith cause so much of it to be removed or trodden down, as will render them passable. The town may direct the manner of doing it. In case of sudden injury to ways or bridges, he shall, without delay, cause them to be repaired.

Snow trodden down. Sudden injuries repaired.  
R. S., c. 25, § 68.

SEC. 44. There shall be furnished and kept in repair in each surveyor's district, through which there is a mail route, some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of ten feet.

Mail routes, apparatus for opening kept.  
R. S., c. 25, § 69.

SEC. 45. Each surveyor at the expiration of his term, is to render to the assessors a list of such persons, as have not worked out or paid their taxes. The assessors are to place the amounts due from each in distinct columns in their next assessment of town taxes on such delinquents, to be collected as other town taxes, and paid to the treasurer.

Surveyors to return delinquents to assessors.  
R. S., c. 25, § 70.

SEC. 46. A sum not exceeding five per cent. of the amount committed to him, may be expended by a surveyor, under the direction of the municipal officers, in planting trees about public burying grounds, squares, and ways within his district, if the town by vote authorizes it.

Trees may be planted.  
1841, c. 107.

SEC. 47. A surveyor within his district may remove any obstacle, which does or is likely to obstruct a way or to render its passage dangerous. He may dig for stone, gravel, or other material, suitable for making or repairing ways in land not inclosed or planted, and remove the same on to the ways. If the land from which such materials were taken, is not within the limits of the way, the owner of it is to be paid therefor in money by the town, to be recovered, after demand and refusal by the surveyor, in an action as on an implied promise.

Materials from lands not enclosed or planted.  
25 Maine, 126.  
32 Maine, 325.  
R. S., c. 25, § 71, 72.

SEC. 48. No surveyor, without a written permission first obtained from the municipal officers, shall cause a water course to be so conveyed by the side of a way as to incommode any person's house or other building, or to obstruct any person in the prosecution of his business. Any person so aggrieved may com-

Water courses not to injure.  
32 Maine, 325.  
R. S., c. 25, § 73.

## CHAP. 18.

Injury by raising or lowering street.

1846, c. 216.

When surveyors may expend more than taxes.

3 Greenl. 445.

11 Maine, 387.

13 Maine, 293.

30 Maine, 157.

34 Maine, 405.

R. S., c. 25, § 74.

Towns may raise and assess moneys for bridges,

and ways, as other taxes.

R. S., c. 25,

§ 75.

Act of 1856.

Wide wheels and watering troughs, abatement for.

R. S., c. 25,

76.

52, c. 245.

Ways may be opened or repaired by contract.

Surveyors or collector may collect when tax not paid.

15 Maine, 247.

R. S., c. 25,

§ 77, 78.

Surveyors to exhibit their bills to selectmen.

R. S., c. 25,

§ 81.

They are to pay balances in their hands to treasurer.

R. S., c. 25,

§ 79, 80.

Road commissioners may be chosen, duties.

plain to the municipal officers, who shall view the water course and may cause it to be altered as they direct.

SEC. 49. When a way or street is raised or lowered by a surveyor or person duly authorized, to the injury of an owner of land adjoining, he may within a year apply in writing to the municipal officers, and they shall view such way or street, and assess the damages, if any, occasioned thereby, to be paid by the town, and their decision is final.

SEC. 50. When the sum appropriated is not sufficient to repair the ways in a surveyor's district, he may, with the written consent of the selectmen, employ inhabitants of the town to labor for pay, not exceeding fifteen per cent. of the amount committed to him.

SEC. 51. Towns may raise money for the repair of bridges and ways, and direct the same to be assessed and collected as other town taxes, to be expended for the purpose by the selectmen or by road commissioners, as the town directs.

SEC. 52. A town, at its annual meeting, may authorize its assessors to abate not exceeding three dollars of the highway tax of any person, upon proof that he has owned and used on the ways during that year cart wheels having felloes not less than six inches wide. And they shall abate three dollars from such tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in a surveyor's district claims to furnish it, the municipal officers are to decide where it shall be located.

SEC. 53. Towns may authorize their surveyors or other persons to make contracts for opening or repairing their ways; and surveyors to collect taxes on their lists not paid within the time limited; and their assessors shall, for that purpose, deliver to them warrants in substance like warrants for the collection of town taxes. Such warrants, with the lists, may be delivered to the collector, who shall collect as he does other town taxes, and pay them to the respective surveyors, who shall account to the municipal officers for the expenditure thereof.

SEC. 54. Surveyors are to exhibit their rate bills to the municipal officers on the first Monday of July, and at the expiration of their terms; and at those times, render an account of all money by them expended on the ways. Any one unreasonably neglecting to do so shall forfeit twenty dollars to the use of the town, to be recovered in an action of debt.

SEC. 55. Money remaining in their hands, not expended at the expiration of their offices, is to be paid to the treasurer of the town. If not so paid, after demand, the same with the addition of twenty per cent. may be recovered in an action for money had and received in the name and for the use of the town.

SEC. 56. Towns, at their annual meetings, may elect one or not exceeding five road commissioners instead of surveyors.

They are to be sworn; and vacancies may be filled at any legal town meeting. Except as hereafter provided, they are to have the powers and be subject to the duties and penalties of surveyors. They may at any time assign the care and oversight of the ways to any of their number; and receive such compensation as the town provides.

CHAP. 18.

R. S., c. 25,  
§ 82, 83.

SEC. 57. The assessors are to deliver to such commissioners a rate bill of all highway taxes assessed for the year, with an annexed statement of the prices fixed for labor and materials. The collection of any part of the taxes may be assigned by them to any of their number, who are to notify the persons taxed and require of them the performance of like labor in like manner, as surveyors might. Their certificate to the assessors shall be evidence of notice, and of the neglect of any person who does not perform.

Road commis-  
sioners, pow-  
ers and duties.  
R. S., c. 25,  
§ 84.

SEC. 58. These commissioners may give notice to non-residents, and to persons absent from town without leaving the name of an agent with the town clerk, or having any agent known to them, of the amount assessed to them, by posting advertisements thereof in two public places in the town. If no person appears and pays within twenty days thereafter, the commissioners may make return of such notice and neglect, as provided in the preceding section.

Non-residents  
and absentees,  
how notified.  
R. S., c. 25,  
§ 85.

SEC. 59. The taxes of such delinquents may be collected as other town taxes, by the collector, one of the commissioners, or by a person designated by them to the assessors. Such collector or person is to be sworn and give bond approved by the commissioners for the faithful discharge of his duties. The assessors are to commit lists of such taxes to him with their warrants for collection. He is clothed with the same powers as collectors of town taxes, and is to render his account, and make payment of the amount collected, to the commissioners until the next annual meeting, and after that to the treasurer of the town, who is to have the like powers and be subject to the like obligations, to compel such account and payment as he has in regard to collectors of town taxes.

Taxes of de-  
linquents, how  
collected.  
20 Maine, 296.  
R. S., c. 25,  
§ 86.

SEC. 60. Towns may at their annual meeting authorize road commissioners to receive money in payment and allow therefor, when paid before certified as delinquent, such discount from the taxes as the town may determine. When more than one commissioner is chosen, the municipal officers are to name one of them to be chairman, who is to keep the rate bills, a record of money received and paid, and hold the money subject to payment, as the commissioners order. He is to give bond with sureties to the town for the faithful performance of his duties, to be approved by the municipal officers. When only one is chosen, he is to give bond in like manner, and be responsible for the performance of all duties pertaining to the office.

Towns may  
allow discount  
for payment in  
money.Commission-  
ers give bond  
and keep ac-  
count.  
R. S., c. 25,  
§ 87, 88.

SEC. 61. If any person receives any bodily injury, or suffers any damage in his property, through any defect or want of repair or sufficient railing in any highway, town way, causeway, or bridge, he may recover for the same in a special action on the

Injuries by  
defects in  
ways.  
R. S., c. 25,  
§ 89.

## CHAP. 18.

case, of the county, town, or persons, obliged by law to repair the same, if such county, town, or persons had reasonable notice of the defect or want of repair. If the life of any person is lost through any such deficiency, the parties liable to keep the same in repair, if they have reasonable notice of such deficiency, shall forfeit not exceeding one thousand dollars, to be paid to the executor or administrator of the deceased for the use of his heirs, to be recovered by indictment. (a)

Repair within six years, proof of way.  
5 Greenl. 368.  
R. S., c. 25, § 101.

No liability when weight of load exceeds six tons.  
1843, c. 34.

One indictment only at a term; highway includes other ways.

R. S., c. 25, § 91.  
1856, c. 221.

Surveyors responsible for defects in case of neglect.

18 Maine, 66.  
R. S., c. 25, § 90.

Agents appointed to expend fines, their duties.

R. S., c. 25, § 92, 93.

Clerk of court to certify fines to assessors to assess them; how collected and paid.

R. S., c. 25, § 93, 94.

SEC. 62. When it appears on trial of any such action or indictment, that the party defendant has, within six years before the injury, made repairs on the way or bridge, it shall not be competent for him to deny the location thereof.

SEC. 63. No town is liable for such an injury when the weight of the load, exclusive of the carriage, exceeds six tons. Proof of its weight is to be made by the plaintiff.

SEC. 64. One indictment only for neglect to open ways or to keep them in repair is to be presented against a town at the same term of the court; but it may contain as many counts, as are necessary to describe all portions of ways alleged to be defective. The word highway used therein will include town ways, causeways, and bridges.

SEC. 65. When a fine is imposed, as provided in section thirty-seven, the surveyor, in whose district the way was, shall pay to the town the amount of such fine and costs, to be recovered in an action on the case, or he, instead of the town, may be indicted, if the defect existed from his neglect to expend the money in his rate bill, or to give notice of any deficiency thereof to the municipal officers.

SEC. 66. All fines imposed are appropriated to the repair of such ways. The court imposing them is to appoint one or more agents to superintend the collection and application of them. Within three months after collection, they are to make return of their doings to the clerk of the court, to remain on file for the inspection of those interested, and subject, on their motion, to be audited and corrected by the court. If an agent is guilty of gross neglect of duty, or fraudulently misapplies or retains the fine, he forfeits double the amount of it, to be recovered by indictment to the use of the town.

SEC. 67. When a fine is imposed on a town, the clerk of the court is to certify it forthwith to the assessors, who are to assess the amount thereof, as other town taxes, and certify the same to the clerk of the court, and cause the amount to be collected by their collector, who is to pay the same to such agent at such time as the court orders. If not paid by that time, the clerk, on application of such agent, is to issue a warrant for its collection, as the treasurer of state is authorized to do for the collection of a state tax.

(a) Notice, 7 Me., 442; 21 Me., 29; 23 Me., 556; 32 Me., 271.  
Way, 11 Me., 271; 12 Me., 300; 14 Me., 201; 16 Me., 187; 17 Me., 199; 18 Me., 286; 26 Me., 234; 32 Me., 431; 33 Me., 460; 35 Me., 100; 36 Me., 393.  
Care, 11 Me., 335; 14 Me., 198; 18 Me., 380; 26 Me., 234; 31 Me., 299; 32 Me., 46, 574; 35 Me., 100.  
Damages, 20 Me., 246; 29 Me., 310; 32 Me., 536; 33 Me., 271.

SEC. 68. If the assessors neglect to make such assessment and to certify it to the clerk, and the defective way is not repaired to the acceptance of such agent within four months after notice of the fine, the court may issue a warrant to collect of the town the fine and costs, or the unpaid part thereof.

SEC. 69. Any person may take down and remove gates, bars, or fences, upon or across any such way, unless they are there to prevent the spread of infectious disease, or were placed there by license of the county commissioners or municipal officers of the town. To those granting such license, a person aggrieved by such removal may apply, and on proof that such erections were made by their license, they may order them to be replaced by the person, who removed them.

SEC. 70. When logs, lumber, or other obstructions, without necessity are left on such ways, the surveyor, within whose district they are, or in his absence any other surveyor, may remove them; and he shall not be liable for any loss or damage thereof, unless occasioned by design or gross negligence. When no person appears to pay the expense and trouble of removal, he may sell at public auction so much thereof, as will be sufficient for the purpose with charges of sale, first posting notice of the time and place of sale in two public places in the town seven days prior thereto. The person, through whose neglect or willful default they were left, is liable to be prosecuted as for a nuisance.

SEC. 71. When any thing has been adjudged to be a nuisance and to be abated, and the materials of which it is composed do not, on sale as aforesaid, produce sufficient to pay the charges of prosecution, removal, and sale, the court may order the deficiency to be raised by levy on the personal property of the person convicted of causing such nuisance.

SEC. 72. When buildings or fences have existed more than twenty years fronting upon any way, street, lane, or land appropriated to public use, the bounds of which cannot be made certain by records or monuments, such buildings or fences shall be deemed to be the true bounds thereof. When the bounds can be so made certain, no time less than forty years will justify their continuance thereon, and on indictment and conviction they may be removed.

SEC. 73. Towns shall erect and maintain guide posts at such places on ways as are determined by the municipal officers to be necessary and convenient for travelers. The places designated are to be entered of record by the clerk. The municipal officers for an unreasonable neglect of this duty shall forfeit five dollars for each month.

SEC. 74. Towns shall erect at each place so designated, a substantial post not less than eight feet high, and fasten to the upper end of it a board or boards, on which is to be plainly painted, in black letters on a white ground, the name of the next town on the route, and of such other place, as the municipal officers direct, with the number of miles thereto, and the figure of a hand with the fore-finger pointing thereto. Towns at their annual meeting may adopt effectual substitutes. For neglect of

## CHAP. 18.

If way not repaired in four months, fine to be collected.

R. S., c. 25, § 96.

Gates, bars and fences on ways may be removed.

12 Maine, 32.

R. S., c. 25, § 97.

Surveyors to remove logs and lumber, proceedings.

R. S., c. 25, § 98.

Persons convicted of nuisance to pay, if materials not sufficient.

R. S., c. 25, § 99.

Buildings and fences existing 20 years on a street or way; existing 40 years.

R. S., c. 25, § 100.

Guide posts; duty of selectmen.

R. S., c. 25, § 102, 103.

Guide posts, how and where erected.

Substitutes allowed.

## CHAP. 18.

Plantations  
obligated as  
towns.  
R. S., c. 25,  
§ 104, 105, 106.

Excavations  
near ways, how  
to be made,  
responsibili-  
ties.  
1855, c. 122.

Ice bridges  
may be made,  
protected.  
1852, c. 236,  
§ 1, 2.

these duties, a town forfeits five dollars for each post not erected and maintained. Plantations assessed in a state or county tax are under the same obligations and subject to the same penalties in these respects as towns.

SEC. 75. Persons desirous of making an excavation near a street or public way, may make written application to the municipal officers setting forth its nature and extent, and requesting their direction thereon; and they shall in writing direct whether it may or not be made, and if permitted, the manner of making it, and when so made, no liability is incurred thereby. If not so made, the person making it is liable to pay to the town, in an action on the case, all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

SEC. 76. Ice bridges may be constructed and maintained across any river or body of water, when its ordinary navigation is obstructed by ice, by persons for their own and the public use. Any person willfully destroying such bridge to prevent its use, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint, one-half to the use of complainant, the other to the use of the state. No person shall take down or injure any fence or occupy any land for the construction or use of such a bridge without consent of the owner first obtained.

## REPAIR OF PRIVATE WAYS OWNED IN COMMON.

Owners of pri-  
vate ways and  
bridges may  
call meeting,  
proceedings.  
21 Maine, 377.  
R. S., c. 25,  
§ 107, 108.

SEC. 77. When four or more persons are owners and occupants of a private way or bridge, any three of them may make a written application to a justice of the peace to call a meeting, who may issue his warrant setting forth the time, place, and purpose thereof, a copy of which is to be posted at some public place in the town seven days before such time. When so assembled they may choose a clerk and surveyor, to be sworn, and may determine what repairs are necessary, and the proportion of labor and materials to be furnished by each owner; and the manner of calling future meetings.

Surveyors' du-  
ties; penalty  
for neglect of  
owners to pay.  
R. S., c. 25,  
§ 108, 109, 110.

SEC. 78. The surveyor so chosen, with respect to such way or bridge, has the powers of a surveyor of highways. For refusing to accept the trust or to take the oath he forfeits four dollars, to be recovered as of surveyors of highways. Any owner and occupant, who on requirement of the surveyor, neglects to furnish his proportion of labor and materials, is subject to liabilities and penalties, as in like cases respecting highways, to be recovered in like manner.

Owners may  
contract for re-  
pair, cause  
money to be  
assessed and  
collected.  
R. S., c. 25,  
§ 111, 112, 113.

SEC. 79. The owners, at such meeting, may authorize a contract to be made for making and keeping such way or bridge in repair, by the year or for a less time; may raise money for that purpose, and choose assessors to assess it on such owners and occupants in proportion to their interests, who are to deliver their assessment with a warrant for its collection to the surveyor. Such warrant to be in substance such as is prescribed for collection of town taxes. The surveyor is to collect the same as

taxes for highways are collected; and be liable for neglect of duty, as surveyors of highways are for similar neglects. CHAP. 18.

SEC. 80. Money recovered under the two preceding sections is for the use of such owners. In any process for its recovery, a description of them in general terms as proprietors and occupants of the way or bridge, clearly describing it therein, is sufficient. Such process is not abated by the death of any owner, or by the transfer of his interest. Penalties and process.  
R. S., c. 25,  
§ 124.

## CHAPTER 19.

### LAW OF THE ROAD.

- SEC. 1. Definition of words "way" and "team" when used.
2. Teams, to turn to the right; unable, to stop.
  3. When stationary, or traveling slowly, allow others to pass.
  4. Not to stand on way to obstruct it, nor be without a driver.
  5. Bells on horses drawing runners.
  6. Damages to injured party, penalty.
  7. Teams to walk, on bridges.
  8. Boards forbidding fast driving on bridges to be exposed.
  9. Driver of team of passengers not to leave it without charge or fastening. Punishment therefor.
  10. Certain teams to have wide rimmed wheels on certain roads. Penalty for violation. Team may be seized and detained.

SEC. 1. As used in this chapter the word "way" includes all kinds of public ways. And the word "team" all kinds of conveyances on such ways for persons and for property. Definition of words used.

SEC. 2. When persons traveling with a team are approaching to meet on a way, they are seasonably to turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is not safe, or is difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, is to stop a reasonable time, at a convenient place, to enable the other to pass. Teams about to meet, to turn to the right; when unable, to stop.  
25 Maine, 39.  
R. S., c. 26,  
§ 1, 2.

SEC. 3. When a person with a team is stationary, or traveling slowly on a way at a place unsafe or inconvenient for passing him with a team, he is, if requested, to drive to the right or left, or to stop a reasonable time at a convenient place, to allow the other to pass. When stationary or traveling slowly, to allow others to pass.  
R. S., c. 26,  
§ 3.

SEC. 4. No person is to leave his team stationary on a way so as to obstruct the free passage of other teams; or is to allow his team to be on a way without a driver. Teams not to stand on ways to obstruct passage, &c.  
R. S., c. 26, § 4.

SEC. 5. Three or more bells are to be fastened to one of the foremost horses drawing teams on snow without wheels. Bells on horses drawing runners.  
R. S., c. 26, § 5.

SEC. 6. Any person injured by a violation of any provision of the previous sections, may recover damages in an action on the case, commenced within one year. Any person found guilty of such a violation forfeits not less than one, nor more than twenty dollars, to be recovered on complaint made to a justice of the peace within sixty days. Damage to party injured; penalty.  
R. S., c. 26, § 6.