

MAINE STATE LEGISLATURE

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THE
REVISED STATUTES

OF THE
STATE OF MAINE,

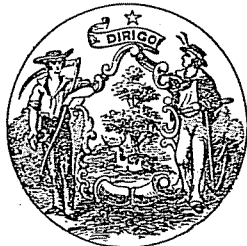
PASSED JANUARY 25, 1871;

TO WHICH ARE PREFIXED
THE CONSTITUTIONS

OF THE
UNITED STATES AND OF THE STATE OF MAINE:

WITH AN APPENDIX.

BY AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY BAILEY & NOYES.

CHAP. 51.

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

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

Owners of toll
ferries and
bridges may
take land for
toll-houses.
1862, c. 151.
See c. 20.

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

CHAPTER 51.**RAILROADS.****PETITION.**

SEC. 1. Petition, what it must contain.

REAL ESTATE, HOW AND FOR WHAT TAKEN.

SEC. 2. Land may be purchased or taken as for public uses; but not dwelling houses, meeting houses, or burying grounds. Guardians may release damages. Person having any interest, deemed owner to that extent.

3. Railroad commissioners to decide as to necessity of land for side track, depots and buildings, and give a certificate thereof, to be recorded.

4. Location to be made, filed and recorded. When a new location may be made. Remedy for a deviation from prescribed course.

5. Land not to be used till damages are paid or secured.

ESTIMATION AND PAYMENT OF DAMAGES.

SEC. 6. Damages to be estimated by county commissioners within three years, and paid or secured by corporation. If proceedings fail, new ones in one year. How to be secured.

7. Cattle guards and passes to be made and maintained by the road; and on failure, may be compelled, or enjoined, or liable for damages.

8. Commissioners to report damages and rights of each party; notice to be given to owners; application for increase or decrease of damages; when proceedings are closed; no alteration after that; compensation of commissioners and costs on appeals.

9. Corporation may deposit amount of damages, interests and costs with the clerk of courts.

10. Damages remaining unpaid more than thirty days after due, bill in equity may be filed and injunction granted, or owner may pray for an estimate of damages to be ordered by the court.

SEC. 11. Service of process and notices, how made.

12. Proceedings in cases of violation of injunction. Court may enter a decree against those violating.

CROSSINGS REGULATED.

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14. Ways may be raised or lowered for crossing.
15. Neglect to perform acts required, subjects corporation to damages.
16. Crossing canal or railroad. Bridges how repaired.
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Boards erected to give notice of crossings.
18. Gates at crossings; proceedings respecting them.
19. Penalty for neglects, and liability to action for damages.

FENCES AND TRESPASSES ON ADJOINING LANDS.

SEC. 20. Fences, how and where made. Liability for injury and how recovered.

21. Remedy of owner of land adjoining, for neglect to fence.
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CONNECTIONS.

SEC. 23. Duties of corporations owning connecting roads.

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SEC. 25. Rates of toll for lumber and wood to be fixed and posted annually. Penalty.

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SEC. 26. Assignment or lease of road forbidden. Exceptions.

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34. Intoxication on railroads punished.
35. Negligence occasioning injury punished.
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38. Forfeiture for walking on road.
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40. Highways, how to be passed; not to be obstructed.
41. Evading payment of fare; penalty.
42. When one railroad crosses another, engineer to stop train and proceed slowly.
One stop sufficient, when two crossings within 400 feet. Forfeiture for violation. Liability of corporation.

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BAGGAGE AND EFFECTS.

- SEC. 43. Lists of effects left by passengers to be published.
44. Lists to be examined by municipal officers, and sold at auction.
45. Disposition of proceeds.
46. Corporation liable for neglect of these duties.

THE ELECTION, POWERS AND DUTIES OF TRUSTEES OF MORTGAGES.

- SEC. 47. Bondholders, with confirmation of S. J. C., may elect trustees to fill vacancies or places of those removed. Old trustees to convey to new.
48. What constitutes a breach of conditions of a mortgage. Trustees to call meeting of bondholders, and how notified.
49. Bondholders to have one vote for each \$100 of bonds, and may vote, whether trustees shall take possession of road.
50. If they so vote, trustees to take possession of mortgaged property, and have the powers of the corporation.
51. Trustees to keep account of receipts and expenses; keep the road in repair, and apply the balance of the funds to payment of mortgage and damages for misfeasance; and when mortgage is paid, property to be surrendered.
52. Call annual and other meeting of bondholders and report to them. Bondholders may fix their compensation, and instruct them to contract for running the road.

FORECLOSURE AND REDEMPTION OF MORTGAGES.

- SEC. 53. How and when railroad mortgages may be foreclosed. Must be redeemed within three years or bill brought, founded on payment, tender or averment of willingness to pay.
54. Holders of overdue bonds and coupons to present them to trustees to be recorded; right of redemption not lost by non-payment of claims not so presented. *
55. Foreclosure enures to benefit of all claimants under the mortgage; and they are constituted a corporation, and trustees to convey to it. Court may compel them to do so.
56. How first meeting of new corporation to be called, may adopt new name, and take and hold the mortgaged property.

NEW CORPORATION MAY REDEEM PRIOR MORTGAGES.

- SEC. 57. New corporation may vote to redeem prior mortgage, and to make assessments therefor, and how and when paid.
58. If assessments not paid, stock sold and new certificates issued. Delinquent not entitled to commutation or dividends till paid.
59. Directors to apply funds to redemption of mortgage, and when redeemed, property to vest in corporation.

REDEMPTION OF PRIOR MORTGAGES BY SUBSEQUENT MORTGAGEES.

- SEC. 60. When and how subsequent mortgagees may redeem prior mortgage.
61. Trustees to call a meeting for that purpose, and how mortgagees may vote to redeem, and each to contribute his portion, or any other for him.

PART OF SUBSEQUENT MORTGAGEES MAY ALSO REDEEM.

- SEC. 62. If no such meeting, or they refuse to redeem, any one interested in the subsequent mortgage, may redeem.

SEC. 63. Delinquents may afterwards pay their proportions and be restored to their rights. Those redeeming may become a new corporation. CHAP. 51.

64. How the stockholders of the old corporation may redeem such prior mortgage; and what to be paid therefore and when.
65. Non-contributing stockholders may pay their proportions and be restored to their rights.
66. Prior mortgagees may vote to extend the time of redeeming, after foreclosure is commenced.

RIGHTS OF PURCHASERS UNDER A SALE OF RAILROAD AND FRANCHISE.

- SEC. 67. When railroad and franchise are sold, purchaser to have rights of original corporation. Such corporation may redeem, and how and when.
68. Trustees operating a railroad and all new corporations to have same rights and obligations as original corporation had. Subject to alterations by the legislature and general laws.
 69. Original corporation continues to close its business, and may sue and be sued.
 70. S. J. C., to have jurisdiction, as in equity, of all disputes, but not to take away any rights at law; and to follow law of trusts and mortgages, in cases not provided for.

RAILROAD COMMISSIONERS.

- SEC. 71. Appointment of railroad commissioners; their term of office, compensation, and by whom paid.
72. Board to examine railroads and rolling stock when necessary, and make annual reports.
 73. Corporation to file certificate of the state of its road and pay commissioners. Penalty and liability for neglecting it.
 74. If board finds road unsafe, to notify managers thereof; and may require them to reduce speed and repair road.
 75. If they do not comply, to apply to S. J. C. to compel them or enjoin.
 76. When connecting railroads do not agree as to transportation of passengers and freight, they may apply to commissioners to award in the matter. Their proceedings and the result.
 77. Award to be returned to court for action. Exceptions may be taken, and how heard. Award accepted binding, and court to make it effectual. Penalty.
 78. Commissioners to examine into cause of serious accidents, and include the results in their annual reports.

EQUAL TRANSPORTATION FOR ALL EXPRESSES.

- SEC. 79. Railroads to furnish equal facilities to all expresses.

TOWNS MAY AID IN THE CONSTRUCTION OF RAILROADS.

- SEC. 80. Towns may aid in construction of railroads not exceeding five per cent. of their valuation.
81. Towns owning railroad stock, how to vote at railroad meetings.
 82. Towns raising money by loans, to pay interest and three per cent. of principal each year after the third.
 83. How meetings in cities are to be called, and votes cast and counted.

CHAP. 51.

PETITION.

Petition, what it must contain.

R. S. c. 51, § 1.
1870, c. 155, § 1.

SEC. 1. When a petition for a railroad corporation is presented to the legislature, it must state the places where the road is to begin and end, the distance between them, its general course, and the names of the towns through which it may pass.

REAL ESTATE, HOW AND FOR WHAT TAKEN.

Land may be purchased or taken for railroad purposes as for public uses; but not dwelling houses, meeting houses or burying grounds.

Guardian may release damages. Person having any interest deemed owner to that extent.

R. S. c. 51, § 2.
1865, c. 321, § 1.
1868, c. 171.

35 Me. 255.
40 Me. 548.

41 Me. 218.
47 Me. 35, 189,

345.
51 Me. 318.

Railroad commissioners to decide disputes as to the necessity of land for side tracks, depots and buildings; and give certificate thereof, to be recorded.

1865, c. 321,
§§ 1, 2, 3.
1868, c. 171.

SEC. 2. A railroad corporation, for the location, construction and convenient use of its road, for necessary tracks, side tracks, depots, wood sheds, repair shops, and car, engine and freight houses, may purchase or take and hold, as for public uses, land and all materials in and upon it; but the land so taken shall not exceed four rods in width for the main track of the road unless necessary for excavation, embankment or materials; but shall not take, without consent of the owners, meeting houses, dwelling houses, or public or private burying grounds. 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.

SEC. 3. If the parties do not agree as to the necessity and extent of the real estate to be taken for said side tracks and buildings, the corporation may make written application to the railroad commissioners, describing the estate, and naming the persons interested; the commissioners shall thereupon appoint a time for the hearing near the premises, require notice to be given to the persons interested as they direct, fourteen days at least before said time; and shall then view the premises, hear the parties and determine how much, if any, of such real estate is necessary for the reasonable accommodation of the traffic and appropriate business of the corporation. If they find that any of it is so necessary, they shall furnish the corporation with a certificate containing a definite description thereof; and when it is filed with the clerk of the court in the county where the land lies, it shall be deemed and treated as taken.

Location, to be filed and recorded. Remedy for a deviation from its prescribed course. When a new location may be made.

R. S. c. 51, § 3.
1860, c. 141.

SEC. 4. The railroad is to be located within the time and substantially according to the description in the charter; and the location is to be filed with the county commissioners, approved by them and recorded. When a corporation, by its first location, fails to acquire the land actually embraced in its road-way, it may at any time correct and perfect its location and file a new description thereof. Any subscriber to the stock, alleging that it has not been located according to its charter, may, before payment of his subscription, make a written application to the county commissioners in the county where the deviation is alleged, stating it, who after fourteen days notice to the corporation, and upon a view and hearing, shall determine whether it has been located as required; if they determine that it has been, no

such defence is to be made to any process to enforce payment; if they determine that it has not, the subscription of such applicant shall be void. The prevailing party recovers costs. CHAP. 51.

SEC. 5. The land taken is not to be entered upon, except to make surveys, before the location has been filed, and the damages estimated and secured as hereinafter provided.

Land not to be used till damages paid or secured.
R. S. c. 51, § 4.
40 Me. 543.
47 Me. 443.

ESTIMATION AND PAYMENT OF DAMAGES.

SEC. 6. For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on a written application of either party, made within three years after filing the location, or if proceedings thus commenced, fail for causes, not affecting the merits, new ones may be commenced within one year thereafter. When no estimate is made within such time, the owner may maintain an action of trespass, or have any remedy herein provided. When requested by the owner, the commissioners are to require the corporation to give security for the payment of damages and cost, by depositing, at its risk, with the clerk, specie, notes or obligations of a state or public corporation, or other security satisfactory to the party requiring it. When entitled to it, so much of any specie so deposited is to be paid to him, as will satisfy his judgment. Notes or obligations so deposited are to be delivered to the officer having a warrant of distress, to be by him sold as personal property is sold on execution, to satisfy the warrant and fees, and any balance is to be paid to the treasurer of the corporation. When the corporation neglects for more than thirty days to give the security required, the owner is entitled to the remedies by injunction herein provided.

Damages to be estimated by county commissioners within three years, and paid or secured by corporation. If proceedings fail, new ones in one year.
How to be secured.
R. S. c. 51, §§ 5, 8, 12.
34 Me. 247.
47 Me. 443.
52 Me. 203.

SEC. 7. The commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable; prescribe the time and manner of making them, and consider this work in awarding pecuniary damages; and if the corporation after forty-eight hours notice in writing to its president or superintendent, neglects to commence the work or complete it within a reasonable time, the owner may apply to the supreme judicial court, and the court, after due notice to said corporation, shall issue all necessary processes to enforce the specific performance of such orders, or restrain it by injunction; or the party interested may recover, in an action on the case, double the damages he has sustained by such neglect.

Cattle guards and passes to be made and maintained by road; and on failure, may be compelled, or enjoined by court, or liable to action.
R. S. c. 51, § 13.
1864, c. 231,
§§ 1, 2, 3.

SEC. 8. The commissioners are to make a report of their general estimate of damages, stating therein specifically, the rights and obligations of each party, at a regular session, and cause it to be recorded; their clerk is then to make out a notice to each person, stating the amount of damages awarded to him, which is to be served by an

Commissioners to report damages and rights of each party; notice to be given to owners; application for in-

CHAP. 51.

crease or decrease of damages; when proceedings closed; no alteration after that. Compensation of commissioners and costs on appeal.
 R. S. c. 51, § 6, 35.
 1861, c. 3.
 1864, c. 231, § 1; c. 246.
 45 Me. 263.
 52 Me. 208.

officer on those resident in the state, and upon others, if any, by a publication three weeks successively in a newspaper printed in the county, if any, if not, in the state paper. The expense of notices is to be added to the costs of the proceedings and paid accordingly. Either party has the same right to apply for an increase or decrease of damages as in case of highways; but no committee or jury shall alter the requirements in the report of the commissioner. When no petition for increase or decrease is filed within thirty days after service of notice, the proceedings are closed. When such petition is filed and is not prosecuted, the same is to be dismissed, and the proceedings closed at the next regular session, unless good cause for delay is shown. No such petition is to be entertained after the proceedings are closed. The commissioners are to be paid the same for their services as in cases of highways; and in cases between the owners and occupants of lands and corporations, they are to be paid by the corporation; when an appeal is taken, the losing party is to pay the cost thereon.

Corporation may deposit damages and costs with clerk of court.
 R. S. c. 51, § 7.

SEC. 9. 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.

When damages are not paid, bill in equity may be filed and injunction issued; or owner may pray for an estimate of damages to be ordered by the court.
 R. S. c. 51, § 9, 11.
 56 Me. 531.

SEC. 10. When the damages remain unpaid for more than thirty days after they are due and demanded, a bill in equity may be filed in court, in term time or vacation, by the person entitled to them, praying for an injunction against the use or occupation of his land taken. If proceedings for an estimation of damages are not commenced within three years, and the owner of the land files a bill praying therefor, the court may estimate the damages, decree their payment and issue an execution therefor; and the plaintiffs will be entitled to a bill for an injunction; and in either case, any judge of the court, after summary notice to the corporation and upon proof of the facts, may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. The bill is to be entered, service of it made, and continued at the term next after the injunction is issued. At the second term, if payment has not been made, the injunction may be made absolute; and all rights acquired by taking the land, and to whatever has been placed upon it, cease, and the owner may maintain any appropriate action for its recovery and protection.

Service of process and notices, how made.
 R. S. c. 51, § 14.

SEC. 11. Service of process and notice may be made upon the president of the corporation. When no president, upon any of its officers. When no officer, upon a stockholder. Service of an injunction issued against any person, whether a party to the bill or not, may

be made upon him, and he will be liable to all the penalties and consequences provided for a breach of it. CHAP. 51.

SEC. 12. If such injunction, after service, is violated, the court may order those doing so, or using the land, to show cause at a time fixed, why a decree should not be entered and execution issued against them individually, and their goods and estate, for the damages, interest, costs, and for additional damages and costs for breach of the injunction. Upon service and return of such order, the court may enter such decree as is just and equitable against such persons, and issue execution accordingly; or may proceed against them as for breach of injunction in other chancery cases.

Proceedings for breach of injunction.
R. S. c. 51, § 10.

CROSSINGS REGULATED.

SEC. 13. Railroads may cross highways in the line of the railroad; but cannot pass along them without leave of the town. The conditions and manner of crossing are to be first determined, in writing, by the county commissioners, and entered in their records, who are to give reasonable notice of their intentions to the municipal officers of the town, in which such crossing is proposed. When the corporation is dissatisfied with their decision, it may make a written application to the governor, who is to appoint three disinterested persons not residents of the county, who, after notice to the commissioners, and at the expense of the corporation, are to revise and adjudicate upon the matter; and their decision, signed and recorded in the records of the commissioners, is to be final. No crossing of a street in a city, not a highway, is to be made without the written consent of the mayor and aldermen, stating the manner and conditions thereof, to be recorded in the records of the commissioners. Crossings not so made are to be regarded as nuisances, and may be so treated, and the directors making them are personally liable.

Crossings of highways and streets, how made.
R. S. c. 51, § 15.
45 Me. 560.
49 Me. §§ 9, 119, 156.
51 Me. 313.

SEC. 14. Upon a written application and after notice to those interested, the commissioners may authorize any way to be raised or lowered, or its course to be altered, to facilitate a crossing, and may prescribe the manner in which it is to be done by the corporation. While its passage is thereby obstructed, a temporary way is to be provided by the corporation.

Ways may be raised or lowered for crossing.
R. S. c. 51, § 16.
38 Me. 26.
49 Me. 119, 156.

SEC. 15. When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in an action on the case, commenced within one year after performance is required.

Neglect to perform, subjects to damages.
R. S. c. 51, § 17.
49 Me. 119, 156.
51 Me. 313.

SEC. 16. A railroad may be carried over or under a canal or railroad, in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making such crossing is liable for damages occasioned by it in an action on the case. Bridges and their abutments, constructed for a crossing of any way, are to be kept in repair by the corporation.

Crossing canal or railroad.
Bridges, how repaired.
R. S. c. 51, § 18.

CHAP. 51.

Bell on engine, and when to be rung. Whistle or bell sounded for warning. Boards erected to give notice of crossings. R. S. c. 51, § 19, 30. 1864, c. 228. 1866, c. 32; c. 36. 55 Me. 438.

SEC. 17. A bell of the weight of thirty-five pounds or more shall be placed on each engine used on a railroad, and rung at the distance of eighty-five rods or more from the crossing of a way on the same level or running contiguous thereto, and kept ringing until the engine has passed the same; and a steam whistle, or, in cities and villages, a bell, shall be sounded as a warning at a distance of a hundred rods; and boards, with the words, railroad crossing, distinctly painted thereon, on each side, in letters plainly legible, are to be placed on the side of a way where it is crossed by a railroad, on a post or other structure, in such position as to be easily seen by persons passing upon such way.

Gates at crossings; proceedings respecting them. R. S. c. 51, § 21.

SEC. 18. When the municipal officers of a town deem it necessary for public safety, that gates should be erected across a railroad, where it crosses a way, and that a person should be appointed to open and close them, they may in writing request it to be done, and in case of neglect or refusal, they may apply to the commissioners to decide upon its reasonableness, who, after notice and hearing, are to decide. When they decide that such a request is reasonable, the corporation is to comply with it and pay the costs. When they decide otherwise, the costs are to be paid by the applicants.

Penalties for neglects, and liabilities to action for damages. R. S. c. 51, § 22.

SEC. 19. 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 so to do, forfeits not exceeding fifty dollars. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent, or for the mismanagement of an engine, to be recovered in an action on the case by the person damaged thereby.

FENCES AND TRESPASSES ON ADJOINING LANDS.

Fences how and where made. Liability for injuries and how recovered. R. S. c. 51, § 23. 29 Me. 307. 39 Me. 273. 46 Me. 161.

SEC. 20. Legal and sufficient fences are to be made on each side of land taken for a railroad, where it passes through inclosed or improved land, or wood lots belonging to a farm, before a construction of the road is commenced, and they are to be maintained and kept in good repair by the corporation. For any neglect of it during the construction of the road, and for injuries thereby occasioned by its servants, agents, or contractors, the directors are jointly and severally personally liable. For any subsequent neglect, the corporation is liable to a fine sufficient to make or repair the fence, to be recovered by indictment and expended by an agent appointed by the court to make or repair the fence.

Remedy of owner of land adjoining for neglect to fence.

SEC. 21. The owner of land adjoining a railroad, may give written notice to its superintendent, or treasurer, or by leaving the same at the office of either, that such fence is not made, or that it needs

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

CHAP. 51.
R. S. c. 51, § 24.
1870, c. 82, § 1.
39 Me. 273.

SEC. 22. The corporation is liable for trespasses and injuries to lands and buildings adjoining or in the vicinity of its road, committed by a person in its employ, or occasioned by its order, when the party injured, has within sixty days thereafter, given notice of it to the corporation; but its liability does not extend to acts of willful and malicious trespass. The person committing a trespass is also liable for it.

The corporation liable for trespasses on adjoining land. The trespasser also.
R. S. c. 51, § 25.

CONNECTIONS.

SEC. 23. A corporation owning a railroad, on which cars run, is on request to draw over its road the cars of any other railroad connecting with it, at reasonable times, and for a toll not exceeding its ordinary rate. When it neglects, the corporation owning the connecting road may draw its cars over such road with its own engines during such neglect, subject, while on such road, to its regulations for the management of its own trains. The corporation owning the connecting road is to furnish its own depots at the termini of the other road, and be liable for all injuries occasioned by such drawing of its cars; from which the other corporation is exempted.

Duties of corporations owning connecting roads.
R. S. c. 51, § 26.
46 Me. 69.
47 Me. 139.
52 Me. 417.

SEC. 24. When railroads cross each other and passenger trains are due at the crossing at the same hour, the train first arriving shall wait for the arrival of the other, if it comes within twenty minutes; and each shall afford suitable opportunity for passengers desiring it to change with their baggage from one train to the other; and the superintendent, conductor and engineer of the road violating this provision shall be subject to a fine not less than ten nor more than fifty dollars for each offence, to be recovered on complaint before a trial justice or by indictment to the use of the state.

Trains due at same hour at crossing or junction, to wait twenty minutes for each other, and give time to change baggage. Penalty for neglecting to do so.
1858, c. 36,
§ § 5, 6.

RATES OF TOLL.

SEC. 25. In the month of September annually, each corporation is to fix its rates of toll for transportation of timber, wood, and bark, per ton, cord, or thousand feet per mile; and on the first day of October following, post up, at all the stations and depots on its road, a copy of such rates of toll and cause a copy to remain posted during the year. For neglecting so to fix and post, or for receiving higher rates of toll than those posted, it forfeits one hundred dollars to any person suing therefor.

Rates of toll for lumber and wood to be fixed and posted yearly.
Penalty.
R. S. c. 51, § 30.
53 Me. 279.

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

SEC. 26. No corporation can assign its charter or any rights under it; lease or grant the use or control of its road or of any part of it, or divest itself thereof, without consent of the legislature. On

Assignment or lease of road forbidden.
Exceptions.
R. S. c. 51, § 31.

CHAP. 51. complaint of a violation of these provisions by any person, the attorney general is to file an information in the nature of a writ of quo warranto against the corporation, and the court may enter such decree as justice and equity require. These provisions do not extend to an agreement between the Somerset and Kennebec, and the Kennebec and Portland railroad corporations, existing on April 30, 1852, or to any portion of the Atlantic and St. Lawrence railroad within the states of New Hampshire and Vermont; nor is any mortgage, made to secure payment of the debt of any such corporation, to be affected thereby.

Shares how
transferred.
R. S. c. 51, § 32.

SEC. 27. Shares in the capital of such corporation are personal estates, and may be transferred by any written conveyance recorded in the books of the treasurer. No conveyances are operative, except between the parties, until so recorded. Upon such transfer, the certificates of shares are to be surrendered and new ones issued, unless the shares had been previously attached, when new certificates are not to be issued, until the attachment is dissolved, or the shares sold by process of law.

Bonds may be
issued and
sold at less
than par.
R. S. c. 51, § 33.

SEC. 28. A railroad corporation, to obtain money to build or furnish its road, or to pay debts contracted for that purpose, may issue its bonds in sums not less than one hundred dollars, bearing interest not exceeding six per cent., secured in such manner as it deems expedient, and binding upon it though sold at less than par value, and no defence of usury can for that cause be admitted.

Holders of
coupons may
collect them in
their own
name.
R. S. c. 51, § 34.
49 Me. 507.

SEC. 29. When coupons for interest are issued with bonds, and, for a valuable consideration, are detached and assigned by delivery, the assignee may maintain assumpsit upon them in his own name against the corporation engaging to pay them.

ANNUAL REPORTS.

Report to be
made annu-
ally in Janu-
ary; its con-
tents.
R. S. c. 51, § 36.
1867, c. 94.

SEC. 30. Every railroad corporation is to make an annual report to the secretary of state in the month of January, of its operations for the year previous to the first day thereof, to be verified by the oath of its treasurer. It is to state, first, the length of the road in operation, the length of single track, the length of double track, the time when laid, and the weight of the rail per yard; second, the capital stock, and the amount called and paid in; third, the whole cost of the road, showing the amount expended for the purchase of lands, for grading, for expenses of engineering, for bridging, for masonry, for iron, and for passenger and other cars; fourth, the amount and nature of its indebtedness and its dues; fifth, the number of through and way passengers and the rates of fare; sixth, the amount received for the transportation of passengers, of property, of the mails and from other sources; seventh, the number of depots, engine houses, shops, engines and cars; eighth, the number of miles run by passen-

ger, freight, and other trains respectively, and the average rate of speed; ninth, the whole number of stockholders and the number who reside in this state; tenth, the amount of each dividend and when made; eleventh, the amount charged for depreciation of road and other property; twelfth, the number of persons injured in life or limb, the cause of injury, and whether passengers or persons employed; thirteenth, whether any such accident arose from carelessness or negligence of any person in the employ of the corporation, and whether such person is retained in its service. If any railroad company willfully neglects to make such report, it forfeits one thousand dollars, to be recovered by indictment to the use of the person prosecuting therefor.

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PROVISIONS FOR SAFETY.

SEC. 31. No train of cars, for passengers, moved by the power of steam, is to be run without one trusty and skillful brakeman to every two cars.

One brakeman to every two cars.
R. S. c. 51, § 37.

SEC. 32. 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.

Railroad liable for damages caused by fire from engine, or by want of fences.
R. S. c. 51, § 38.
1868, c. 186.
1870, c. 155, § 2.

SEC. 33. When an accident occurs on a road, resulting in the death of a person, the corporation using it is to give immediate notice thereof to the county attorney, who is to call upon a coroner, residing near the place of the accident, to hold an inquest upon the bodies of those whose deaths were so occasioned. If the county attorney does not reside within ten miles of that place, some justice of the peace, residing in the county, is to be called upon to notify a coroner to hold such inquest, before notice is given to the attorney to be present at it.

37 Me. 92.
42 Me. 579.
46 Me. 95.
47 Me. 523.
Coroners to hold inquest on bodies of those killed on road.
R. S. c. 51, § 39.

SEC. 34. A person having charge of a locomotive engine, or acting as conductor, brakeman, or switchman, who is intoxicated while employed on a railroad, is liable to a fine not exceeding one hundred dollars, or to imprisonment not exceeding six months, or to both.

Intoxication on railroads punished.
R. S. c. 51, § 40.

SEC. 35. Any person employed in conducting trains, who is guilty of negligence or carelessness occasioning an injury, is to be punished by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars. The corporation employing him is not thereby exempt from responsibility.

Negligence occasioning injury punished.
R. S. c. 51, § 41.
43 Me. 269.
51 Me. 318.

SEC. 36. Any railroad corporation, by whose negligence or carelessness, or by that of its servants or agents while employed in its business, the life of any person, in the exercise of due care and diligence, is lost, forfeits not less than five hundred, nor more than five thousand dollars, to be recovered by indictment found within one year,

Occasioning death, how punished.
R. S. c. 51, § 42.

CHAP. 51. wholly to the use of his widow, if no children; and to the children, if no widow; if both, to her and them equally; if neither, to his heirs.

SEC. 37. No railroad corporation is liable to a fine for the loss of life of a person walking or being on its road contrary to law, or to its valid rules and regulations.

SEC. 38. A person, without right, standing or walking on a railroad track or bridge, or passing such bridge in any manner other than by railroad conveyance, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint.

SEC. 39. A printed copy of the preceding section is to be kept posted in a conspicuous place in every passenger depot of a railroad; for neglect of it the corporation forfeits not exceeding one hundred dollars for every offence.

SEC. 40. No engine or train is to be run across a highway near the compact part of a town at a greater speed than six miles an hour. Nor is any way to be unreasonably and negligently obstructed by engines, tenders or cars. The corporation forfeits not exceeding one hundred dollars for every such offence.

SEC. 41. No person is entitled to be transported over a railroad, who does not, on demand, first pay the established fare. One who fraudulently evades payment by giving a false answer, or by traveling beyond the place to which he has paid, or by leaving a train without paying, forfeits not less than five, nor more than twenty dollars, to be recovered on complaint.

SEC. 42. When a railroad crosses another railroad on the same grade, every engineman on both, when approaching the point of intersection with an engine, with or without a train, shall stop his engine within one hundred and fifty feet of such point and before reaching it, and shall not pass it at a rate exceeding eight miles an hour, except when, from the condition of the track or train, it shall be necessary to run at greater speed; and in that case, the conductor or person in charge of the train, shall cause some person to stand at said crossing with a flag by day, and a lantern by night, to warn trains approaching on the other road; but when two or more crossings on the same road are within four hundred feet of each other, one stop will be sufficient; and if he violates this provision, he shall forfeit for each offence one hundred dollars; and the corporation on whose road the offence is committed shall forfeit two hundred dollars.

BAGGAGE AND EFFECTS.

SEC. 43. Railroad corporations are to publish in one newspaper printed in each county where there is a passenger depot, in the months of January and July of each year, a list of the effects of passengers, which have been left by them and remain unclaimed at any place in

Not liable for death of person walking on road.

R. S. c. 51, § 43.

Forfeiture for standing or walking on track or bridge.

R. S. c. 51, § 44.

Printed copy of preceding section to be posted.

R. S. c. 51, § 45.

Highways, how to be passed; not to be obstructed.

R. S. c. 51, § 46.

Penalty for evading payment of fare.

R. S. c. 51, § 47.

53 Me. 279.

When one railroad crosses another, engineman to stop train and proceed slowly.

One stop sufficient, when two crossings within 400 feet.

Forfeiture for violation. Liability of corporation.

R. S. c. 51, § 48.

1870, c. 99.

Lists of effects left by passengers to be published.

R. S. c. 51, § 49.

their possession. The effects are to be described by all such marks CHAP. 51.
on them as serve to identify them.

SEC. 44. Articles, remaining unclaimed for six months after being so advertised, are to be examined by the municipal officers of the town where the articles are, on notice given, and they are to cause them to be sold at auction, or to be advertised again as before.

Lists to be examined by municipal officers and sold at auction.
R. S. c. 51, § 50.

SEC. 45. After deducting from the proceeds of sale the expenses due to the corporation, and the costs of advertising, examination, and sale, any balance is to be paid to the treasurer of state for its use.

Disposition of proceeds.
R. S. c. 51, § 51.

SEC. 46. For neglect of these duties, the corporation is liable to an action for damages by any person aggrieved, and to a penalty of one hundred dollars for each case of neglect, to be recovered by indictment, one half to the complainant, the other to the county where the offence was committed.

Corporation liable for neglect of these duties.
R. S. c. 51, § 52.

THE ELECTION, POWERS AND DUTIES OF TRUSTEES OF MORTGAGES.

SEC. 47. When a railroad corporation mortgages its franchise for the payment of its bonds or coupons, and trustees are appointed by it, or 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, or take the place of others holding the trust; but no trustee shall be thus removed until he is paid for all that is due him, and secured against all liabilities assumed by him as such trustee. Any party interested may present the proceedings of such meeting to the supreme judicial court, or to a justice thereof in vacation, who shall appoint a time of hearing, and order such notice to parties interested as he deems proper, and may affirm such elections, and make and enforce any decrees necessary for the transfer of the trust property to the new trustees. All such decrees shall be filed with the clerk of the court where the hearing is had, and recorded by him.

Bondholders, with confirmation of S. J. C. may elect trustees to fill vacancies or places of those removed. Old trustees to convey to new.
1858, c. 30,
§§ 1, 2, 3, 4, 6.
50 Me. 552.

SEC. 48. The neglect of the corporation to pay any overdue bonds or coupons secured by such mortgage, for ninety days after presentment and demand on the treasurer or president thereof, shall be a breach of the conditions of the mortgage; and thereupon the trustees shall call a meeting of the bondholders, by publishing the time and place thereof three weeks successively in the state paper, and in some paper in the county where the road lies, the last publication to be one week at least before the time of the meeting.

What constitutes a breach of the conditions of a mortgage. Trustees to call meeting of bondholders, and how notified.
R. S. c. 51,
§ § 53, 54.
50 Me. 552.
52 Me. 82.

SEC. 49. At such meeting and all others, each bondholder present may have one vote for each hundred dollars of bonds held by him or represented by proxy; and they may organize by the choice of a moderator and clerk, and determine whether the trustees shall take possession of such road, and manage and run it in their behalf.

Bondholders to have one vote for every \$100 of bonds, and may vote whether trustees shall take possession of road.
R. S. c. 51, § 54.

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If they so vote, trustees to take possession of mortgaged property, and have the powers of the corporation.
R. S. c. 51, § 54.
55 Me. 395.

Trustees to keep an account of receipts and expenses; keep road in repair and apply balance of funds to payment of mortgage and damages for misfeasance; and when mortgage is paid, property to be redeemed.
R. S. c. 51, § 54.

Call annual and other meetings of bondholders, and report to them. Bondholders may fix their compensation and instruct them to contract for running the road.
R. S. c. 51, § 54.
1858, c. 30, § 5.

SEC. 50. If they so determine, the trustees shall take possession of such road and all other property covered by the mortgage, and have all the rights and powers, and be subject to all the obligations of the directors and corporation of such road, and may also prosecute and defend suits in their own name as trustees.

SEC. 51. They shall keep an accurate account of all receipts and expenditures of such road and exhibit it, on request, to any officer of the corporation or other person interested. They shall from the receipts keep the road, buildings and equipments in repair; furnish such new rolling stock as is necessary, and the balance, after paying the running expenses, shall be applied according to the rights of parties under the mortgage, and to the payment of any damages arising from misfeasance in the management of the road. They shall not be personally liable except for malfeasance or fraud. When all overdue bonds and coupons, secured by the mortgage are paid, they shall surrender the road and other property to the parties entitled thereto.

SEC. 52. They shall annually, and at other times on written request of one-fifth of the bondholders in amount, call a meeting of the bondholders in the manner prescribed in the by-laws of the corporation for calling a meeting of stockholders, and report to them the state of the property, the receipts, expenses and the application of the funds. At such meeting, the bondholders may fix the compensation of the trustees; instruct them to contract with the directors of the corporation or other competent party, to operate said road while the trustees have the right of possession, if approved by the bondholders at a regular meeting, otherwise not exceeding two years, and to pay to them the net earnings thereof; or give them any other instruction they deem advisable; and the trustees shall conform thereto, unless inconsistent with the terms of the trust.

FORECLOSURE AND REDEMPTION OF MORTGAGES.

How and when railroad mortgages may be foreclosed. Must be redeemed within three years or bill brought, founded on payment, tender or averment of willingness to pay.
R. S. c. 51 § 55.
1868, c. 208.
50 Me. 552.
54 Me. 173.

SEC. 53. The trustees on application of one-third of the bondholders in amount to have such mortgage foreclosed, shall immediately give notice thereof, by publishing it three weeks successively in the state paper and some paper, if any, in each county in which the road extends, therein stating the date and conditions of the mortgage, the claims of the applicants under it, that the conditions thereof have been broken, and that for that reason they claim a foreclosure; and they shall cause a copy of such notice and the name and date of each newspaper containing it, to be recorded in the registry of deeds in each such county, within sixty days from the first publication; and unless, within three years from the first publication, the mortgage is redeemed by the mortgagors or those claimant under them, or a bill in equity as in cases of the redemption of mortgaged lands is commenced, founded on payment or a legal tender of the amount of overdue bonds

and coupons, or containing an averment that the complainants are ready and willing to redeem on the rendering of an account, the right of redemption shall be forever foreclosed. CHAP. 51.

SEC. 54. Each holder of overdue bonds or coupons shall present them to the trustees at least thirty days before the right of redemption expires, to be by them recorded; and such right shall not be lost by the non-payment of any claims not so presented; and the parties having the right to redeem shall have free access to the record of such claims.

Holder of overdue bonds and coupons to present them to trustees to be recorded; right of redemption not lost by non-payment of claims not so presented. R. S. c. 51, § 56. Foreclosure enures to benefit of all claimants under the mortgage, and therefore constitutes a corporation, and trustees are to convey to it. Court may compel them to do so. R. S. c. 51, § 57.

SEC. 55. The foreclosure of the mortgage shall enure to the benefit of all the holders of bonds, coupons and other claims secured thereby; and they, their successors and assigns are constituted a corporation, as of the date of the foreclosure, for all the purposes, 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.

SEC. 56. The new corporation may call its first meeting in the manner provided for calling the first meeting of the original corporation and use therefor the old name; but at that meeting, may adopt a new one, by which it shall always after be known; and it may take and hold the possession, and have the use of the mortgaged property though a bill in equity to redeem is pending, and may become a party defendant to such bill.

How first meeting of new corporation to be called; may adopt new name, and take and hold the mortgaged property. R. S. c. 51, §§ 58, 59.

NEW CORPORATION MAY REDEEM PRIOR MORTGAGES.

SEC. 57. If any part of such property or franchise is subject to a prior mortgage, such new corporation, at a legal meeting called for that purpose, may vote to redeem the same, and make an assessment therefor on all persons holding any stock, certificates for fractions of stock, bonds or coupons in such corporation in proportion to their amounts. The directors shall immediately assess such sum, and fix a time and place for the payment thereof to the treasurer, who shall publish notice accordingly six weeks successively in some newspaper, if any, in each of the counties where the road extends, the last publication to be two weeks at least before the time fixed for payment.

New corporation may vote to redeem prior mortgage, and make assessments therefor, and how and when paid. 1866, c. 25, §§ 1, 2, 3, 4.

SEC. 58. 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 pur-

If assessments not paid, stock sold and new certificates issued. Delinquent not entitled to commutation or dividends, till paid. 1866, c. 25, §§ 3, 6, 7, 8.

CHAP. 51. chaser; and the delinquent stockholder shall surrender his to be cancelled, and may have a new one for his unsold shares by paying the legal stamp; and if he held bonds, coupons or certificates for fractions of stock, he shall not be entitled to commute them or receive any dividends thereon until he has paid his assessment with twelve per cent. interest.

Directors to apply funds to redemption of mortgage, and when redeemed, property to vest in corporation.
1866, c. 25.
§§ 9, 10

When and how subsequent mortgagees may redeem prior mortgages.
1864, c. 265, § 1.

Trustees to call a meeting for that purpose, and how mortgagees may vote to redeem, and each to contribute his portion or any other for him.
1864, c. 265, §§ 2, 3.

If no such meeting, or they refuse to redeem, any one interested in the subsequent mortgage, may redeem.
1864, c. 265, § 4.
Delinquents may afterwards pay.

SEC. 59. The directors shall apply the money realized from such assessments solely to the redemption of such prior mortgage until it is fully paid; and then all the property, rights and interests secured thereby shall vest in such new corporation.

REDEMPTION OF PRIOR MORTGAGES BY SUBSEQUENT MORTGAGEES.

SEC. 60. When a subsequent mortgage of a railroad, its franchise or of any part of its other property, contains no provision for a sale, or a conditional provision depending on the application of a majority in amount of the claims secured thereby, and no such application has been made to the trustees, the holder of such mortgage may redeem a prior mortgage on the same property which is under process of foreclosure, at any time before it becomes absolute; and hold it in trust for those who contributed thereto in proportion to the amount paid by each.

SEC. 61. For such purpose, the trustees of such subsequent mortgage, on the application of one or more persons interested therein, made six months prior to the absolute foreclosure of such prior mortgage, and on payment of reasonable expenses to be incurred thereby, shall call a meeting of all interested and publish a notice thereof, stating the time, place and purpose, three weeks successively in the state paper and such other papers as they think proper. If at such meeting, or one called by the trustees without application, the holders of a majority of the interests there represented vote to redeem the prior mortgage, each one may contribute his proportion thereto. The trustees shall give immediate notice of such vote by publishing it as above, and shall therein state the time and place of payment, and the amount to be paid on each hundred dollars as near 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.

PART OF SUBSEQUENT MORTGAGEES MAY ALSO REDEEM.

SEC. 62. If no such meeting is called or it is voted not to redeem, one or more of the persons interested in such subsequent mortgage, may pay to the trustees thereof the amount required to redeem the prior mortgage; and such trustees shall redeem it accordingly and then hold it in trust for the persons so paying.

SEC. 63. When a prior mortgage has been redeemed in either mode aforesaid, and all persons interested in the subsequent mort-

gage have not paid their proportions thereof, the trustees shall publish a notice ten weeks successively in the state paper, the first publication not to be till the right of redeeming the prior 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 shall have the same rights as if he had paid originally; and those not so paying are barred. Money so paid shall be divided ratably to those who advanced the redemption money; and they may become a new corporation, and new certificates of stock or fractions of stock may be issued in the manner and with the rights, powers and obligations hereinbefore provided.

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their proportions and be restored to their rights. Those redeeming may become a new corporation. 1864, c. 265, § 5, 6, 7.

SEC. 64. When a prior mortgage is thus redeemed, any number of the stockholders of the old corporation may redeem it within two years thereafter by paying to the trustees of such subsequent mortgage the amount paid therefor, with ten per cent. interest, and also the amount secured by the subsequent mortgage due to those who had contributed to redeem the prior mortgage, after deducting the net earnings of said road or adding the net deficiencies, if operated by the trustees of the subsequent mortgage; and said stockholders may demand of said trustees an accurate account of the receipts and expenditures and amount due on the mortgage, and have the same remedies for a failure as in case of mortgages of real estate. After such redemption the redeeming stockholders shall have all the rights of those from whom they redeemed. *

How the stockholders of the old corporation may redeem such prior mortgage, and what to be paid therefor and when. 1864, c. 265, § 9. 54 Me. 173.

SEC. 65. The stockholders redeeming as aforesaid, shall give notice to the stockholders who have not contributed thereto; and the latter shall have the same rights hereinbefore provided in the case of bondholders.

Non-contributing stockholders may pay their proportions, and be restored to their rights. 1864, c. 265, § 9.

SEC. 66. 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.

Prior mortgagees may vote to extend the time of redeeming, after foreclosure is commenced. 1864, c. 265, § 8.

RIGHTS OF PURCHASERS UNDER A SALE OF RAILROAD AND FRANCHISE.

SEC. 67. When the franchise of a railroad and its road, wholly or partly constructed, are sold by a decree of the court, by a power of sale in a mortgage thereof or on execution, the purchasers have all the rights, powers and obligations of the corporation under its charter; and may form a new corporation in the manner hereinbefore provided. If the original corporation or those claiming under it have a right to redeem, they may do so in the manner provided for the redemption of mortgaged real estate; but shall pay in addition to the amount of the sale and interest, the reasonable expenditures

When railroad and franchise are sold, purchaser to have rights of original corporation. Such corporation may redeem, and how and when. 1860, c. 193, §§ 1, 2, 3, 4.

CHAP. 51. 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.

Trustees operating a railroad, and all new corporations, to have same rights and obligations as the original corporation had. Subject to alterations by the legislature and general laws.

R. S. c. 51 § 54.
1864, c. 265 § 6.

Original corporation continues to close its business, and may sue and be sued.

R. S. c. 51 § 60.
1860, c. 193 § 1.

S. J. C. to have jurisdiction as in equity of all disputes, but not to take away any rights at law, and to follow the law of trusts and mortgages in cases not provided for.

R. S. c. 51 § 62.
1864 c. 265 § 9.

SEC. 68. The trustees of bondholders or other parties under contract with them operating a railroad, and all the corporations formed in the modes hereinbefore provided, shall have the same rights, powers and obligations as the old corporation had by its charter and the general laws; and shall also be subject to be amended, altered or repealed by the legislature and to all the general laws concerning railroads, notwithstanding anything to the contrary in the original charter.

SEC. 69. The original corporation shall exist, after the foreclosure of the mortgage, for the sole purpose of closing up its unsettled business; and the right of action against it or its stockholders shall not thereby be impaired; but in suits founded on any of the bonds or coupons secured by the mortgage, the proportional actual value of the property taken under the mortgage shall be deducted.

SEC. 70. The supreme judicial court, in addition to the jurisdiction specifically conferred upon it by this chapter, may have jurisdiction, as in equity, of all other matters in dispute arising under the preceding sections relating to trustees, mortgages, and the redemption and foreclosure of mortgages; but not to take away any rights or remedies that any party has and may elect to enforce at law; and in all proceedings relating to trustees or to mortgages, their foreclosure and redemption, not otherwise specifically provided for herein, the law relating to trusts and mortgages of real estate may be applied.

RAILROAD COMMISSIONERS.

Appointment of railroad commissioners their tenure of office and compensation, and by whom paid.

1858, c. 36

§§ 1, 7.

1860, c. 175

§§ 1, 2.

1861 c. 44

§§ 1, 5.

1868, c. 179 § 3.

Board to examine railroads and rolling stock when necessary, and make annual reports.

1858, c. 36 § 2.

1860, c. 175

§§ 2, 7.

1864, c. 238 § 1.

1868, c. 179 § 1.

SEC. 71. The governor, with advice of council, shall appoint three railroad commissioners, who shall act as a board and hold their offices three years; two of them shall be experienced in the construction and management of railroads, and one of them shall be an engineer. Their compensation shall be five dollars a day while actually employed in their official duties, to be paid by the railroads on which the services are rendered.

SEC. 72. A majority of the board, annually between the first of April and October, and at any other time on application or without when they think necessary, shall carefully examine the tracks, rolling stock, bridges, viaducts and culverts of all railroads; shall give a certificate thereof to the clerk of the corporation, therein stating the condition of the road and rolling stock, and shall annually in December make a report to the governor of their official doings with such facts as they deem of public interest or he requires; and all

persons managing railroads shall give the board such information as CHAP. 51. they from time to time request.

SEC. 73. The corporation shall file such certificate in the office of the secretary of state before the first day of December and pay the commissioners for the examination, or forfeit one thousand dollars to be recovered in an action of the case, half to the state and half to the person suing therefor; and if the president and directors of a railroad while it is guilty of such neglect, allow a passenger train to run over it, they shall be personally liable for any damages occasioned by a defect in said road or rolling stock; but this will not relieve the corporation.

Corporation to file certificate of the state of its road, and pay commissioners. Penalty and liabilities for neglecting it. 1860, c. 175 § 2.

SEC. 74. If the board at any examination find the track, culverts, bridges or rolling stock in use so out of repair as to be unsafe for 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 repairs are made.

If board find road unsafe, to notify managers thereof, and may require them to reduce speed and repair road. 1864 c. 233 § 2.

SEC. 75. If they do not comply with such requirements, the commissioners shall petition the supreme judicial court in any county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement and refusal to comply; and shall notify the attorney general or the county attorney of the county where the petition is filed, of the filing thereof, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the managers of the road as they deem necessary to secure the safety of travelers; and unless such managers will execute a bond to the state, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or otherwise satisfy the court that they will be so made, the court shall issue an injunction on said corporation and its managers; prohibiting the running of any passenger trains over the portion of the road found to be unsafe, until the order has been complied with or revoked.

If they do not comply, to apply to S. J. C. to compel them or enjoin. 1864, c. 233 § 3.

SEC. 76. When the managers of a railroad authorized to cross or connect with another road, are unable to agree therewith, as to transportation of passengers and freight over their roads and other matters, they may apply to the commissioners in writing, and either of them may endorse an order of notice thereon to all interested, fixing a time and place for hearing; and the applicant shall cause such order to be complied with. At such hearing, any corporation or person claiming to be interested, may be made a party and be heard thereon, though not named in the application; and said commissioners have the authority of courts at law to summon witnesses, compel their attendance and

When connecting railroads do not agree as to transportation of passengers and freight, they may apply to commissioners to award in the matter. Their proceedings and the result. 1860. c. 175 §§ 8. 9.

CHAP. 51. testimony, and depositions may be taken and used as in suits at law. When the hearing is closed, they shall determine and award the rates for transporting passengers, freight or cars over the road of each or over any road on which either is a common carrier by contract or otherwise, and all other matters in controversy between the two roads arising from such connecting, or crossing, or the times of doing so; and may require either party to give security to the other for the payment of balances resulting from their mutual business, on such terms as they deem equitable; and may determine that their award may be suspended, after its acceptance, at the election of the party injured by the non-performance of the conditions thereof by the other.

Award to be returned to court for action. Exceptions may be taken, and how heard. Award accepted binding, and court to make it effectual. Penalty. 1853, c. 36 §§ 3, 4. 1860, c. 175 §§ 10, 11.

SEC. 77. The award shall be returned to the supreme judicial court in the county where the hearing was had, and accepted, or for good cause, rejected or recommitted. Exceptions to any ruling of the court in such proceedings may be taken and allowed within the rules of the court, except in recommitting the report; and when so allowed, a certified copy thereof and of all papers used at the hearing, shall be forthwith sent by the clerk of the court to the chief justice thereof; and the parties shall be heard thereon by the law court in the district where the hearing was had; but if such court does not sit within thirty days after the papers are received by the chief justice, he shall, at the request of either party, detail a majority of the justices to hear the case at the time and place ordered by him; send the order to the clerk of the court where the matter is pending, and he shall enter it on the docket under the case, and that shall be sufficient notice to the parties; and the case shall then and there be heard the same as if at a regular law term. When the award is accepted and judgment rendered thereon, it shall be binding on all parties notified, whether they appeared or not, until a new award is made on another application; and the court has full power to make the award effectual by process for contempt or otherwise as in equity cases; and if the corporation or managers of any such road, after they are notified of the acceptance of such award, fail to comply with it, the directors, superintendent or other agents running such road shall be subject to a fine of not less than ten nor more than fifty dollars for each day of such failure, to be recovered by indictment in the county where it occurs.

Commissioners to examine into cause of serious accidents, and include the results in their annual report. 1868, c. 179, § 2.

SEC. 78. When a serious accident occurs on a railroad and any person is thereby injured, the commissioners shall immediately proceed to the place, examine into the cause thereof, may send for persons and papers, and make a full statement of the cause and results of the accident in their annual report, and in any other manner they think the public good requires.

EQUAL TRANSPORTATION FOR ALL EXPRESSES.

CHAP. 51.

SEC. 79. Every railroad operating in this state shall furnish reasonable and equal facilities and accommodations to all persons engaged in express business for transportation of themselves, agents, servants, merchandise and other property; for the use of their depots, buildings and grounds, and for exchanges at points of junction with other roads, under a penalty of not exceeding five hundred dollars, to be recovered by indictment; and shall also be liable to the aggrieved party in an action on the case for damages.

Railroads to furnish equal facilities to all expresses.
1868, c. 193.

TOWNS MAY AID IN THE CONSTRUCTION OF RAILROADS.

SEC. 80. Any city or town, by a two-thirds vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time or all at once, a sum of money not exceeding in all five per cent. on its regular valuation for the time being, and appropriate it to aid in the construction of railroads in such manner as they deem proper; and for such purpose may make contracts with any person or railroad corporation.

Towns may aid in construction of railroads, not exceeding five per cent. of valuation.
1867, c. 119, §§ 1, 2.
1868, c. 210.

SEC. 81. 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.

Towns owning stock, how to vote at railroad meetings.
1867, c. 119, § 4.

SEC. 82. A city or town raising money by loan as aforesaid, shall raise and pay, besides the interest, each year after the third, not less than three per cent. of the principal unless it is satisfactorily provided for in some other way.

Towns raising money by loan to pay interest and three per cent. of the principal each year after the third.
1867, c. 119, § 3.

SEC. 83. Meetings for the purposes aforesaid in cities, shall be called by the municipal officers, on the order of the common council, as meetings for the election of city officers are called; and said common council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the legal voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting "yes," and those opposed, voting "no," the ballots cast shall be sorted, counted and declared in open ward meeting and recorded; and the clerks shall make returns thereof to the municipal officers, who shall examine such returns; and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

How meetings in cities are to be called, and votes cast and counted.
1870, c. 81.