

MAINE STATE LEGISLATURE

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FOURTH REVISION.

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED AUGUST 29, 1883, AND TAKING EFFECT JANUARY 1, 1884.

BY THE AUTHORITY OF THE LEGISLATURE.



PORTLAND:
PUBLISHED BY LORING, SHORT & HARMON
AND
WILLIAM M. MARKS, PRINTER.
1884.

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ERRATA:

**The following two leaves are
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

ERRORS.

ERROR IN THE TEXT OF THE REVISED STATUTES.

Page 63, § 3, line one.—Erase the last word “may.”

ERROR IN THE TEXT OF THE REPEALING ACT.

Page 999.—Transfer “Chapter 48, Section 6, of an act to facilitate the prompt administration of justice by establishing a superior court in Kennebec County,” from the year 1879 to 1878.

ERROR IN THE COMMISSIONER’S NOTES.

Pages 177, 178.—Erase the last two lines of page 177, and the first three lines of page 178.

ERRORS IN THE MARGINAL REFERENCES.

Page 59, § 6, ¶ xx.—Erase “*R. S.*, c. 1, ¶ xx”, and supply, at the bottom of the page, “*R. S.*, c. 1, § 4”

“ 66, § 24.—Erase “*Resolve of 1837*, c. 52.”

“ 69, § 44.—Supply “*Resolve of 1840*, c. 107.”

“ 72, § 68.—Erase “*See c. 6*, §§ 40-67.”

“ “ § 70.—Erase “*R. S.*, c. 2, § 66.”

“ 79, § 12, (note b).—“*See c. 18*, § 73” should read “*See c. 18*, § 75.”

“ “ “ “ “*See c. 30*, § 15” should read “*See c. 30*, § 16.”

“ “ § 14.—Supply “*See c. 18*, § 75.”

“ 83, § 40.—“*R. S.*, c. 3, § 34” should read “*R. S.*, c. 3, § 33.”

“ 84, § 46.—“*See c. 18*, § 67” should read “*See c. 18*, § 59.”

“ 86, § 59, ¶ i, (note b).—“*See c. 17*, §§ 25-29” should read “*See c. 17*, §§ 27, 28.”

“ “ “ ¶ vi, (note e).—“*See c. 18*, § 15” should read “*See c. 18*, § 17.”

“ 92, note.—“*c. 18*, §§ 39, 103” should read “*c. 18*, §§ 39, 97.”

“ 97, § 16.—Erase “*R. S.*, c. 4, § 16.”

“ 108, § 86.—“*Art. ii*, § 2” should read “*Art. ii*, § 1, ¶ 2.”

“ 117, § 28.—Erase the first reference to “1878, c. 31, § 1.” Also erase “*R. S.*, c. 5, § 26.”

“ 176, § 27.—“*Resolve of 1883*, c. 20” should read “*Resolve of 1883*, c. 86.”

“ 183, § 5.—“*See* § 93, ¶ 6” should read “*See* § 93, ¶ v.”

“ 202, § 102.—“1883, c. 229” should read “*See c. 115*, § 1.”

“ 209, § 1.—Supply “1880, c. 215.”

“ 210, § 7.—Supply “1880, c. 215.”

“ 249, § 44.—“1875, c. 25, § 6” should read “1875, c. 25, § 6.”

“ 270, § 16.—Supply “1880, c. 215.”

“ 330, § 26.—“*See c. 40*, § 77” should read “*See c. 40*, § 74.”

“ “ § 28.—“*See c. 40*, § 38” should read “*See c. 40*, §§ 33, 40.”

“ 374, § 23.—“*See* § 17” should read “1880, c. 234, § 1.”

“ 384, § 74.—Add “1883, c. 138, § 3.”

“ “ “ “ “1883, c. 144, § 4.”

“ 506, § 1.—Supply “*See* 1880, c. 215.”

“ 642, § 80, bottom of the page.—Supply “1878, c. 48, § 6.”

“ 709, § 105.—“*See c. 134*, § 13” should read “*See c. 134*, § 19.”

“ 773, § 42.—Supply “1883, c. 198, § 2.”

“ 804, § 35.—“*See c. 134*, § 26” should read “*c. 134*, § 26.”

“ 861, § 1.—“*R. S.*, c. 2, § 20,” } should read “1883, c. 221.”
“ “ “ “ “*R. S.*, c. 115, § 1.” }

“ 862, § 4.—“*See c. 63*, §§ 32 to 39” should read “*See c. 63*, § 35.”

ERRORS IN CITATIONS OF CASES.

- Page 10, § 8, ¶ iii, (note c).—"14 *Pet.*, 504" should read "14 *Pet.*, 540."
 " 16, § 1, (note b).—"10 *Me.*, 483" should read "10 *Me.*, 283."
 " 78, § 5, (note a).—"13 *Me.*, 472, 489" should read "13 *Me.*, 472."
 " " § 7, (note b).—"12 *Me.*, 589" should read "12 *Me.*, 489."
 " 147, § 97.—"58 *Me.*, 528" should read "58 *Me.*, 532."
 " 166, § 1.—"64 *Me.*, 549" should read "64 *Me.*, 599."
 " 200, § 93, ¶ iv.—Erase "20 *Me.*, 545."
 " 211, § 19.—"3 *Me.*, 347" should read "3 *Me.*, 249."
 " 241, § 5, (note b).—"68 *Me.*, 28" should read "63 *Me.*, 28."
 " 257, § 80, (note a), Construction of ways.—"26 *Me.*, 340" should read "26 *Me.*, 240."
 " 397, § 1, (note a).—Erase "66 *Me.*, 526."
 " 521, § 2, (note a).—Erase "60 *Me.*, 377."
 " " § 9.—Erase "60 *Me.*, 533."
 " 563, § 10.—"31 *Me.*, 286" should read "31 *Me.*, 254."
 " 597, § 23.—"4 *Me.*, 19" should read "4 *Me.*, 8."
 " 705, § 78.—"43 *Me.*, 438" should read "48 *Me.*, 438."
 " 728, § 12.—Erase "68 *Me.*, 30."
 " 750, § 5.—Erase "20 *Me.*, 325."
 " 765, § 1, (note a).—Erase "73 *Me.*, 228."
 " 814, § 19, (note c).—Erase "71 *Me.*, 543."
 " 817, § 8, (note b).—"27 *Me.*, 363" should read "27 *Me.*, 362."
 " 885, § 1.—Erase "62 *Me.*, 285."
 " 886, § 8.—"36 *Me.*, 225" should read "36 *Me.*, 227."
 " 933, § 4.—"34 *Me.*, 478" should read "39 *Me.*, 478."

OMISSION IN REFERENCE INDEX TABLE, PART I.

Page 1060.—Supply "1878, c. 48, § 6," with a reference to "R. S., c. 77, § 80."

copy thereof, and make return of his doings thereon to said clerk forthwith. If the owner, or part owner, is unknown, or resides without the state, such notice shall be given by publication in the state paper, or in a paper published in the county, three weeks successively.

SEC. 26. If no application is made to a justice of the supreme judicial court, as is hereafter provided, the municipal officers of such town, shall cause said nuisance to be abated, removed or altered in compliance with their order, and all expenses thereof shall be repaid to the town within thirty days after demand, or may be recovered of such person by an action for money paid.

SEC. 27. Any owner aggrieved by such order, may apply to a justice of the supreme judicial court, in term time or vacation, who shall forthwith, after notice and hearing, affirm, annul, or alter such order. If the court is not in session, the action shall be entered on the docket of the preceding term.

SEC. 28. If the court affirms such order, costs shall be recovered by the town. If it wholly annuls such order, costs shall be recovered by the applicant, and if it alters it in part, the court may render such judgment as to costs as justice requires.

SEC. 29. The four preceding sections shall not be in force in any town unless adopted at a legal meeting thereof.

CHAP. 17.

—owner to be served with a copy of order; return of service.

See c. 3, § 59, ¶ 8.

Town officers may order nuisance abated, at owner's expense, unless owner applies to S. J. C.

R. S., c. 17, § 26.

Owner may apply to supreme court; proceedings.

R. S., c. 17, § 27. 1883, c. 175, §§ 3, 4.

Costs, by whom to be paid.

R. S., c. 17, § 29. 1883, c. 175, §§ 3, 4.

Sections 25-28 require vote of town.

R. S., c. 17, § 30.

CHAPTER 18.

WAYS.

LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

- SEC. 1. Commissioners' power; petition how framed.
2. Notice how given, proved and recorded.
3. Costs paid by petitioners on failure. Distress warrant may be issued.
4. Duties of commissioners at the hearing, and in laying out or altering ways.
5. Return when made; disposal of it. Petitions for increase of damages, when presented. Damages awarded under first thirteen sections, to be paid out of county treasury.
6. Proceedings, when petitions are presented, before and after hearing.
7. Damages, how estimated, to whom awarded; when payable.
8. Petitions for increase of damages, by appeal to S. J. court. Proceedings.
9. Time allowed for removing growth, and for making the way.
10. Way discontinued before damages paid; proceedings.
11. Highways, when county commissioners may re-locate doubtful boundaries of. Town officers to preserve road monuments.

WAYS IN TWO OR MORE COUNTIES.

- SEC. 12. Petitions respecting ways in two or more counties. Proceedings of commissioners of the several counties thereon. Notices.
13. Proceedings of commissioners continued and closed.

CHAP. 18.

TOWN AND PRIVATE WAYS.

- SEC. 14. Powers of municipal officers respecting town and private ways. Notice, how given.
15. Municipal officers may lay out winter ways for hauling merchandise, hay, wood or lumber; to return expenses of such location. Town not liable for damages on such way.
16. Town officers to lay out town and private ways; towns may accept.
17. Towns may discontinue such ways; set off sidewalks; plant trees.
18. Damages, how estimated and paid.
19. Selectmen refusing, proceedings. Damages and costs in such case.
20. When such way shall be opened.
21. Towns refusing, proceedings.
22. Petition for increase of damages; when filed, notice and proceedings.
23. Town ways acted upon by county commissioners, cannot be acted on by towns for what time.
24. Grading, county commissioners may direct amount of, and may order half the expense to be paid by the county.
25. When and within what time a town may re-instate a town way discontinued by commissioners on appeal.
26. Land not to be taken from railroad without notice and hearing.

WAYS ACROSS RAILROADS.

- SEC. 27. Ways across railroad tracks, how laid out. Manner and conditions of crossing to be determined by railroad commissioners. When not at grade, said commissioners shall adjust expense. Appeal and proceedings. Costs.
28. How such ways already laid out shall be maintained.
29. Railroad commissioners to determine when ways across lands of railroad companies may be laid out.
30. Adjudications to be recorded.

ASSESSMENT OF DAMAGES UPON ABUTTERS ON CITY STREETS.

- SEC. 31. Damages for laying out, widening, altering or discontinuing city streets may be assessed on abutters. Notice.
32. Abutters to be notified of assessment.
33. Abutters entitled to a committee or jury on appeal.
34. If no appeal, lots may be sold at auction for unpaid assessment. Two years' redemption. Twelve per cent. interest and costs.
35. Or city treasurer may sue abutter.

WHEN WAYS ARE TO BE OPENED.

- SEC. 36. On discontinuance of highway, commissioners to fix the time therefor. Ways not opened within six years, to be regarded as discontinued. Way located by town officers, void, if land is not entered on in two years.
37. Ways to be opened by an agent appointed by commissioners, if towns neglect. Expenses, how paid.
38. Proceedings authorized, when record of location is lost or disregarded.
39. Plantations have powers and may proceed as towns.

ACTIONS FOR DAMAGES AND COSTS.

- SEC. 40. Damages, how recovered.

WAYS IN PLACES NOT INCORPORATED.

- SEC. 41. County commissioners may lay out ways in places not incorporated; expenses, by whom paid.
42. Notice of hearing, how given.
43. Ways, how to be laid out.
44. Parties aggrieved may appeal to the supreme court. Proceedings.
45. But one petition for the same road to be made the same year.
46. Commissioners may lay out, alter or discontinue highways, through towns, plantations and unincorporated tracts, on same petition.
47. Petition for increase of damages may be filed within sixty days.

WAYS IN INCORPORATED PLACES.

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- SEC. 48. Appeal, how made and prosecuted; proceedings stayed.
49. On appeal, committee appointed; proceedings. No person appearing, judgment of commissioners may be affirmed.
50. Judgment, when reversed, and when not; proceedings. Costs. Compensation to committee.
51. When committee must be sworn.

LIABILITY FOR REPAIR OF WAYS AND FOR INJURIES.

- SEC. 52. Ways to be kept open and in repair. Penalty.
53. Petition to county commissioners after five days' notice to delinquent town. Proceedings.
54. Petition may be presented at a session or in vacation.
55. Commissioners may appoint agent to repair way, if town neglects. Commissioners may issue warrant of distress.
56. Ways between towns, how divided. Liability of towns.
57. Same. Commissioners may make and record division.
58. Municipal officers to assign limits to surveyors by May tenth. When appointed surveyors, municipal officers may delegate their powers.
59. Towns to raise money. Lists to be delivered to surveyors by May tenth, and two thirds to be expended by July first.
60. Surveyors' duties.
61. Snow to be trodden down; sudden injuries repaired.
62. Mail routes; apparatus to be kept for opening.
63. Surveyors to make return of delinquents to assessors.
64. Trees may be planted.
65. Materials may be taken from lands not inclosed or planted.
66. Road commissioners and highway surveyors to examine roads monthly, between April and November. Penalty for neglect.
67. Water-courses not to be so made as to do injury. Remedy.
68. Streets raised or lowered, injury how compensated.
69. When surveyors may expend more than the taxes.
70. Towns may assess for bridges and ways, as for other expenses.
71. Wide wheels, and watering troughs, abatement for. Town officers may establish drinking troughs and fountains.
72. Ways may be opened and repaired by contract, and tax collected.
73. Surveyors to exhibit bills to selectmen on first Monday of July.
74. Surveyors to pay balance in their hands to treasurer.
75. Road commissioners may be chosen; their duties.
76. Road commissioners, powers and duties.
77. Non-residents and absentees, how notified.
78. Taxes of delinquents, how collected.
79. Towns may allow discount for money. Commissioner to give bond, and to keep accounts.
80. Limited liability for injuries through defective highways. Authorities entitled to twenty-four hours' actual notice of defect. When sufferer must give previous notice. Claimant must make written claim within fourteen days. Damages for loss of life. View may be ordered by court.
81. Repair within six years, proof of way.
82. No liability when weight of load exceeds six tons.
83. Snow, ice or slippery sidewalk no cause of action to pedestrian.
84. Railroad company may defend suit against town for defective railroad crossing.
85. Liability of railroad company.
86. Notice to company.
87. One indictment only at a term; highway includes other ways.
88. Surveyors responsible for defects in case of neglect.
89. Fines, appropriated for repairs of ways; agents to expend; their duties.
90. Fines certified by clerk of courts to assessors; their duties; fines.
91. Fines to be collected, if way is not repaired in four months.
92. Gates, bars and fences may be removed. Remedy of person aggrieved.
93. Logs and lumber to be removed by surveyors; proceedings. Person by whose neglect left, to be liable.

- CHAP. 18. SEC. 94. Persons convicted of placing nuisance, to pay, when materials do not.
 95. Buildings and fences existing twenty and forty years, effect of.
 96. Towns to maintain guide-posts at crossing of ways. Penalty for neglect.
 97. Town officers to erect guide-posts. Penalty for neglect. Plantations.
 98. Excavations near ways, how made; responsibilities of persons and towns.
 99. Ice bridges may be made and protected, with consent of land owners.

REPAIR OF PRIVATE WAYS OWNED IN COMMON.

- SEC. 100. Owners of private ways and bridges may call meetings, and choose clerk and surveyor.
 101. Surveyors' duties; penalty for neglect of owners to pay.
 102. Owners may make contracts for repairs, and cause money to be assessed and collected as taxes for highways.
 103. Penalties, how appropriated, process to collect them; not abated by death of owners.

LOCATION, ALTERATION, AND DISCONTINUANCE OF HIGHWAYS.

County commissioners may lay out, alter or discontinue, all county roads. 1875, c. 25, § 1.

SEC. 1. County commissioners may lay out, alter, or discontinue highways leading from town to town, and grade hills in any such highway. Nothing in any city charter shall be so construed as to deprive them of the power to lay out, alter, or discontinue county roads within the limits thereof. Responsible persons may present, at their regular session, a written petition describing a way and stating whether its location, alteration, grading 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. (a)

Notice, how given, proved and recorded. R.S., c. 18, § 2. 19 Me., 343. 30 Me., 305. 68 Me., 406, 497.

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 is, 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. 18, § 3. 2 Me., 54. 3 Me., 103. 68 Me., 497.

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.

County commissioners to hear parties. 1875, c. 25, § 2. —may lay out, grade, alter or discontinue a way. —their return.

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 the parties interested. If they judge the way to be of common convenience and necessity, or that any existing way shall be altered, graded, 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

(a) Authority of commissioners. 11 Me., 276; 15 Me., 22; 19 Me., 343; 26 Me., 356, 409; 31 Me., 270; 32 Me., 568; 37 Me., 559; 39 Me., 584; 40 Me., 437; 42 Me., 401; 59 Me., 89; 64 Me., 457; 70 Me., 408.

Petition. 2 Me., 53; 3 Me., 105; 26 Me., 356, 408; 32 Me., 568; 37 Me., 119; 63 Me., 114; 68 Me., 407, 497.

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 and opened to travel, they shall cause durable monuments to be erected at the angles thereof. (a)

CHAP. 18.

—shall erect durable monuments. See § 11.

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

Return to be filed with clerk. 1883, c. 175, § 1. 59 Me., 391.
—proceedings.
—notice of appeal, when to be filed.

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

Proceedings before and after decision, respecting increase of damages. R. S., c. 18, § 6. 1883, c. 175, § 2. 63 Me., 28.

SEC. 7. If any person's property is damaged by laying out, altering or discontinuing a highway or town way, the county commissioners or the municipal officers of towns shall estimate the amount, and in their return state the share of each separately; damages shall be allowed to the owners of reversions, and remainders, and to tenants for life, and for years, in proportion to their interests in the estate taken; but said commissioners or officers shall not order such damages to be paid, nor shall any right thereto accrue to the claimant, until the land over which the highway or alteration is located, has been entered upon and possession taken, for the purpose of construction or use.

Damages, how estimated; to whom awarded; when to be paid. 1883, c. 245, § 1. 71 Me., 140.

SEC. 8. Any person aggrieved by the estimate of damages by the

Appeal from county com-

(a) Return. 12 Me., 212; 14 Me., 343; 23 Me., 13, 513; 26 Me., 409; 30 Me., 307; 35 Me., 377; 49 Me., 145; 51 Me., 384; 65 Me., 292; 72 Me., 430.

Angles and monuments. 25 Me., 304; 35 Me., 377; 49 Me., 148.

Validity of proceedings. 8 Me., 272, 293; 11 Me., 473; 19 Me., 343; 23 Me., 11, 513; 24 Me., 152; 26 Me., 356, 408; 30 Me., 306; 31 Me., 270; 32 Me., 568; 37 Me., 120, 559; 42 Me., 400; 49 Me., 145; 52 Me., 27; 68 Me., 407; 73 Me., 324.

Damages. 19 Me., 315; 45 Me., 424; 49 Me., 145; 52 Me., 27; 54 Me., 478; 60 Me., 540; 61 Me., 442; 63 Me., 28; 67 Me., 460, 464.

(b) Filing and recording return. 31 Me., 272; 32 Me., 568; 42 Me., 399; 59 Me., 391; 68 Me., 28.

Close of proceedings. 23 Me., 11; 25 Me., 304; 30 Me., 308; 59 Me., 391; 63 Me., 28.

CHAP. 18.

missioners
to supreme
court.
1883, c.175, § 4.

—by agree-
ment, appeal
may be
determined
by committee
of reference.
21 Me., 390.
—appellant to
file notice of
appeal with
county com-
missioners.

—costs.

Time allowed
for removing
growth, and
opening way.
R.S., c.18, § 14.
See § 36.

Way discon-
tinued before
damages
paid, pro-
ceedings.
R.S., c.18, § 15.

County com-
missioners
to preserve
boundaries
of highways
by durable
monuments.
1872, c. 58, § 1.

—municipal
officers to
preserve and
replace them.
1872, c. 58, § 2.
See § 4.

Petitions
respecting
ways in two
or more coun-
ties, proceed-
ings on them.
R.S., c.18, § 16.
—notices.
52 Me., 213.
65 Me., 214.

county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time before the third day of the regular term succeeding that at which the commissioners' return is made, to the term of the supreme judicial court, first held in the county where the land is situated, more than thirty days after the expiration of the time within which such appeal may be taken, excluding the first day of its session, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal. The appellant shall file notice of his appeal with the county commissioners within the time above limited, and at the first term of the court shall file a complaint setting forth substantially the facts, upon which the case shall be tried like other cases. The clerk shall certify the final judgment of the court to the county commissioners, who shall enter the same of record. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party, said claimant fails to recover a greater sum as damages than was allowed to him by the commissioners.

SEC. 9. The owners of lands taken shall be allowed one year after the proceedings are finally closed to take off timber, wood, or any erection thereon. A time not exceeding three years shall be allowed for making and opening the way. (a)

SEC. 10. When the way is discontinued before the time limited for the payment of damages, the commissioners may revoke their order of payment, and estimate the damages actually sustained, and order them paid. Any person aggrieved may have them assessed by a committee or jury, as herein provided.

SEC. 11. When the true boundaries of highways duly located are doubtful, uncertain or lost, the county commissioners of the county wherein such highway is located, upon petition of the municipal officers of the town wherein the same lies, shall, after such notice thereon as is required for the location of new ways, proceed to hear the parties, examine said highway, locate and define its limits and boundaries and cause durable monuments to be erected at the angles thereof, and if any real estate is damaged by said action, shall award damages to the owner as in laying out new highways. Said municipal officers shall maintain all highway monuments, and replace them forthwith when destroyed.

WAYS IN TWO OR MORE COUNTIES.

SEC. 12. When a petition is presented respecting a way in two or more counties, the commissioners receiving the petition being satisfied as aforesaid, may call a meeting of the commissioners of all 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 chairmen; 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

(a) 8 Me., 137; 39 Me., 116; 64 Me., 409.

every such county, and by posting it in three public places in each town interested, and serving it on the clerk thereof. These notices shall be posted, served, and published thirty days before the time of meeting. CHAP. 18.

SEC. 13. 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, shall 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.

Proceedings, how continued and closed.
R.S., c. 18, § 17.
25 Me., 292.
45 Me., 424.
52 Me., 213.
73 Me., 57.

TOWN AND PRIVATE WAYS.

SEC. 14. The municipal officers of a town 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 such notice, and they shall determine whether it shall be a town way or a private way; and if a private way, whether it shall be subject to gates and bars. (a)

Power of municipal officers respecting town and private ways.
—notice, how given.
R.S., c. 18, § 18.
—duty of officers in laying out way.

SEC. 15. They may lay out a way as aforesaid for the hauling of merchandise, hay, wood or lumber, to be used only when the ground is so covered with snow that such hauling shall not break the soil. When so laid out, they shall state in their return the purposes for which it is laid, and that it shall be used only in the winter season, and shall order the persons for whose accommodation it is laid, to pay into the town treasury an amount equal to the damages and expenses of such location for the benefit of the owner of the land over which it is laid, and it shall not be accepted by the town until such amount is so paid. No town shall be liable for damage to any person travelling on such way.

Municipal officers may lay out a winter road for hauling wood, hay, lumber, &c.
1881, c. 4.
—return of location.

SEC. 16. A written return of their proceedings containing the bounds and admeasurements of the way, and the damages allowed to each person for land taken, shall be made and filed with the town clerk in all cases. The way is not established, until it has been accepted in a town meeting legally called after it has been laid out, by a warrant containing an article for the purpose. (b)

—town not liable for damage.
After municipal officers have laid out, town may accept.
R.S., c. 18, § 20.

SEC. 17. 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 per-

Towns may discontinue.
—establish sidewalks; plant trees.

(a) Notice. 3 Me., 439; 10 Me., 341; 11 Me., 113; 13 Me., 254; 18 Me., 185; 35 Me., 246; 43 Me., 576; 59 Me., 368, 518.

Authority of municipal officers. 10 Me., 340; 11 Me., 113; 14 Me., 343; 18 Me., 185; 45 Me., 244; 46 Me., 427; 51 Me., 571; 57 Me., 45; 59 Me., 452; 62 Me., 328; 64 Me., 581.

Legality of proceedings. 2 Me., 60; 10 Me., 25; 12 Me., 275; 25 Me., 71; 26 Me., 178; 32 Me., 568; 61 Me., 439.

(b) Return of selectmen. 12 Me., 35, 275; 13 Me., 254; 18 Me., 186, 346; 26 Me., 178; 30 Me., 26; 40 Me., 301; 67 Me., 286.

Bounds and admeasurements. 14 Me., 343; 25 Me., 304; 30 Me., 25; 40 Me., 301.

Acceptance. 10 Me., 344; 11 Me., 113; 12 Me., 36; 16 Me., 302; 18 Me., 185; 21 Me., 174; 23 Me., 124; 26 Me., 180; 35 Me., 246; 40 Me., 301; 48 Me., 457; 59 Me., 518; 64 Me., 579; 67 Me., 286.

CHAP. 18. son 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. (a)

R.S., c. 18, § 21.
See § 64;
c. 3, § 59, ¶ 6.

Damages,
how estimat-
ed and paid.
R.S., c. 18, § 22.
See c. 1, § 6,
¶ 3.

SEC. 18. The damages for a town way shall be paid by the town; for a private way, by those for whose benefit it is stated in the petition to be, or wholly or partly by the town, if under an article in the warrant to that effect it so votes at the meeting accepting such private way; or by cities, if it is proposed in the return laying out such way. On petition to the commissioners, any person aggrieved by the estimate of damages, may have them assessed in the manner provided respecting highways. (b)

Town or
private way,
neglect or re-
fusal of mu-
nicipal offi-
cers to lay
out or alter;
proceedings.
R.S., c. 18, § 23.
See §§ 1-4.

—county
commission-
ers to hear
and decide.

—appeal.
1880, c. 217, § 1.

SEC. 19. 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 may, within one year thereafter, present a petition stating the facts to the commissioners of the county at a regular session, who shall give notice thereof to all interested and act thereon as is provided respecting highways. When the decision of the municipal officers is in favor of such laying out or alteration, any owner or tenant of the land over or across which such way has been located, shall have the same right of petition. When the decision of the commissioners is returned and recorded, such owner or tenant, or other party interested, has the same right to appeal to the supreme judicial court, and have his damages estimated as provided in section eight. (c)

When such
way may be
opened.
1880, c. 217, § 2.

SEC. 20. No such way shall be opened or used until after sixty days from its acceptance by the town, and if within that time notice of such appeal or petition is filed with the town clerk, such way shall not be opened or used until finally located by the appellate tribunal.

Towns un-
reasonably
refusing to
accept, or to
discontinue.
R.S., c. 18, § 24.

SEC. 21. When a town unreasonably refuses to discontinue a town or private way, or to accept one laid out or altered by the selectmen, the parties aggrieved may, within the time, and in the manner provided in section nineteen, 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 the two preceding sections. (d)

Order of
notice on
petition for
increase of
damages.
1874, c. 205.
1883, c. 175,
§§ 3, 4.
28 Me., 123.

SEC. 22. When a petition for increase of damages on account of such ways, is presented to the county commissioners, they shall order notice to the town interested in such petition, and after hearing, return,

(a) 37 Me., 55, 71; 45 Me., 607; 69 Me., 440.

(b) 11 Me., 265, 424; 12 Me., 212; 17 Me., 201; 19 Me., 316; 21 Me., 391; 19 Me., 343; 26 Me., 179; 28 Me., 123; 30 Me., 272; 32 Me., 568; 48 Me., 283; 57 Me., 342; 59 Me., 518; 60 Me., 537; 67 Me., 460.

(c, d) 8 Me., 271; 10 Me., 26; 12 Me., 211, 275; 18 Me., 185; 21 Me., 380; 25 Me., 71; 30 Me., 26; 31 Me., 271, 580; 36 Me., 76; 40 Me., 301; 41 Me., 605; 42 Me., 480; 51 Me., 571; 57 Me., 341; 59 Me., 514; 60 Me., 330, 537-540; 63 Me., 102; 64 Me., 581; 68 Me., 538; 70 Me., 324; 73 Me., 57.

and record of decision, like proceedings may be had, as provided in CHAP. 18.
section eight.

SEC. 23. When a town way has been laid out, graded, 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.

Town ways acted on by co. comm'rs cannot be acted on by towns for what time. 1875, c. 25, § 3. See § 1.

SEC. 24. The county commissioners, in laying out new ways, or altering or grading ways already laid out, may direct the amount of such grading, which shall be stated in their return; and they may order a portion of the expense of such altering or grading, not exceeding fifty per cent. thereof, to be paid to the town in which the altering or grading has been done, from the county treasury.

Co. comm'rs may fix amount of grading. 1875, c. 25, § 7. 1876, c. 85, § 3. —order half the expense to be paid by the county.

SEC. 25. When a town has accepted a town way, and said town way is subsequently discontinued by the county commissioners on appeal, before such road has been opened for travel, such town may, at its annual meeting, held within three years thereafter, by a majority of the voters present and voting, re-instate and lay out such town way, under an article for such purpose in the warrant. The damages shall be assessed, and the owners of the land over which said way passes shall be notified thereof by the municipal officers, within thirty days after said meeting; and any person so damaged may petition the county commissioners within fifteen days after said notice, for an increase of damages, and such action shall be had thereon as is provided in case of town ways laid out on petition. A town way so re-established and laid out shall not be discontinued for five years thereafter.

Towns may re-instate town ways discontinued by county commissioners. 1878, c. 41, § 1. —damages. See § 14.

See § 22. —proviso. 1878, c. 41, § 2.

SEC. 26. No private way, town way, city street, or highway, taking land of any railroad corporation, shall be located, unless a notice of the time and place of the hearing upon said location has been served upon the station agent of said railroad within such town or city, if any, otherwise upon such agent whose station is nearest to the land proposed to be so taken, at least seven days before the time for such hearing.

Lands shall not be taken from a railroad for any way without notice and hearing. 1880, c. 223.

WAYS ACROSS RAILROADS.

SEC. 27. Town ways and highways may be laid out across, over or under any railroad track, in the same manner as other town ways and highways, except that the railroad commissioners, on application of the parties owning or operating the railroad, shall upon notice and hearing determine the manner and conditions of crossing the same; and when such way crosses such track at grade, the expense of building and maintaining so much of such way as is within the limits of such railroad, shall be borne by the railroad company whose track is so crossed; and when such way is laid out under or over such track, and not at grade, the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne by such company, or by the city

Ways crossing railroad tracks, how laid out. 1878, c. 43, § 1. —manner and conditions of crossing, to be determined by R. R. commissioners. 1883, c. 167, § 2. —when not at grade, expense adjusted by railroad commissioners.

CHAP. 18. or town in which such way is located, or shall be apportioned between such company and such city or town, as may be determined by the railroad commissioners, upon petition, and after notice and hearing of the parties. Either party may appeal in writing from any decision of said commissioners to the supreme judicial court, at any time before the next term thereof in the county where such way is located, at which term such appeal may be entered and prosecuted by the appellant. If he fails so to appear at that term, the decision of the railroad commissioners is final and conclusive. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, not residents of said county, who shall be sworn, and if one of them dies, declines, or becomes interested, the court may appoint another in his place; they shall give such notice as the court orders, view the way in question, hear the parties, and make their report at the same or the next term after their appointment, whether the decision of the railroad commissioners should be in whole or in part affirmed or reversed, which being accepted, and judgment thereon entered, shall be final and conclusive. Costs may be taxed and allowed to either party, at the discretion of the court.

—either party may appeal to supreme court.

—proceedings on appeal.

See §§ 1, 14.

—costs.

Such ways already laid out, how maintained. 1878, c. 43, § 2.

R. R. commissioners to determine when ways crossing certain lands of R. R. may be laid out. 1883, c. 167, § 1. Adjudications to be recorded. 1883, c. 167, § 3.

SEC. 28. In case of such ways already so laid out, over or under any railroad track, and not at grade, the expense of building and maintaining so much thereof as is within the limits of such railroad, shall be borne as provided in the preceding section; the question shall be determined upon application of any company whose track is so crossed, made within sixty days after written notice has been served thereon by the municipal officers of any town in which such way is located, requesting such company to build and maintain so much of such way as is within the limits of its road.

SEC. 29. No way shall be laid out through or across any land or right of way of any railroad corporation, used for station purposes, unless after notice and hearing the railroad commissioners adjudge that public convenience and necessity require it.

SEC. 30. Adjudications of the railroad commissioners relating to ways shall be recorded in the office in which the location of the way must be recorded.

ASSESSMENT OF DAMAGES UPON ABUTTERS ON CITY STREETS.

Damages caused by laying out, widening, altering or discontinuing city streets, may be assessed in whole or in part upon abutters. 1872, c. 26, § 1.

SEC. 31. Whenever the city council lay out any new street or public way, or widen or otherwise alter or discontinue any street or way in a city, and decide that any persons or corporations are entitled to damage therefor, and estimate the amount thereof to each in the manner provided by law, they may apportion the damages so estimated and allowed, or such part thereof as to them seems just, upon the lots adjacent to and bounded on such street or way, other than those for which damages are allowed, in such proportions as in their opinion such lots are benefited or made more valuable by such laying out or widening, alteration or discontinuance; but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all

—notice of

persons interested of a hearing before said council, at a time and place specified, which notice shall be published in some newspaper in said city at least one week before said hearing.

SEC. 32. After said assessment has been made upon such lots or parcels and the amount fixed on each, the same shall be recorded by the city clerk, and notice shall be given within thirty days after the assessment by delivering to each owner of said assessed lots resident in said city a certified copy of such recorded assessment, or by leaving it at his last and usual place of abode, and by publishing the same three weeks successively in some newspaper published in said city, the first publication to be within said thirty days, and said clerk within said thirty days shall deposit in the post office of said city, postage paid, a certified copy of such assessment directed to each owner or proprietor residing out of said city, whose place of residence is known to said clerk, and the certificate of said clerk shall be sufficient evidence of these facts, and in the registry of deeds shall be the evidence of title in allowing or assessing damages and improvements, so far as notice is concerned.

SEC. 33. An aggrieved owner or proprietor, may, at any time within six months after such assessment, have the same assessed as is now provided for the estimate of damages for land taken for laying out, altering, widening or discontinuing any new street or public way in said cities; and if, upon appeal, such owner or proprietor fails to be assessed a smaller sum than that assessed by the city council, then said city shall recover costs, after such appeal, which shall be added to and become a part of said assessment; otherwise the appellant shall recover costs after said appeal, and the clerk of the courts for the county, shall, within thirty days after final judgment, in case of appeal, certify such judgment to the clerk of said city.

SEC. 34. If the sums so assessed are not paid to the city treasurer within six months after such assessment and no appeal is claimed, the mayor, under the order of the council, may issue his warrant directed to the city treasurer, reciting substantially the proceedings had, and direct him to sell all such lots upon which the assessment has not been paid as aforesaid at public auction to the highest bidder, or so much of each as may be necessary to pay said assessment and all intervening charges and costs, first giving public notice of the time and place of sale by posting notices thereof in two public places in said city and publishing the same three weeks successively before said sale, in some newspaper published therein. Said treasurer shall obey said warrant and execute and deliver to the purchaser of such lot or any part thereof, a deed which shall convey a good and valid title of the same to the purchaser; and such owner or proprietor may redeem the same at any time within two years after such sale, by paying or tendering to the purchaser or depositing with said treasurer the amount paid by such purchaser, with interest at the rate of twelve per cent. a year. And there shall be a lien upon each of said lots for the payment of said assessment and all costs and charges until the same is paid.

SEC. 35. In addition to the foregoing provisions, any city treasurer

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hearing to be
published for
one week.

Owners to be
notified of
assessment.
1872, c. 26, § 2.

How owners
aggrieved
may have
re-assess-
ment made.
1877, c. 172.
1883, c. 175,
§§ 3, 4.
See § 18.

—costs.

If no appeal,
and assess-
ment is not
paid, pro-
ceedings.
1872, c. 26, § 4.

—lots may be
sold at
auction.

—two years
redemption.

—twelve per
cent. interest,
costs, &c.

Treasurer
may sue pro-

CHAP. 18. may, for the use of his city, in an action of assumpsit, recover of each proprietor for assessment. 1872, c. 26, § 5. owner or proprietor any assessment which has become due and payable, with all charges and costs.

WHEN WAYS ARE TO BE OPENED.

Way not opened in 6 years, discontinued. See §§ 7, 9, 16. —way located by town officers, void; if land not entered on in two years. 1883, c. 245, § 2.

Commissioners may cause highways to be opened when towns neglect. R.S., c. 18, § 28. 1875, c. 25, § 4. 25 Me., 303. 37 Me., 120, 555. 49 Me., 155. 59 Me., 84. 64 Me., 331. 71 Me., 240.

—expenses, how paid.

Record location of highway, when lost or disregarded. R.S., c. 18, § 29.

—proceedings in case of.

—any justice of S. J. C. to issue summary notice, &c.

Plantations liable as towns and have same powers. R.S., c. 18, § 30. See c. 3, § 79. 20 Me., 298.

Damages, how recovered.

SEC. 36. When a town way, private way, or highway, is wholly or partly discontinued by the commissioners, a time shall be fixed for it. And when laid out by them the way shall be regarded as discontinued, if not opened within six years from the time allowed therefor. When town or private ways are finally located by municipal officers, unless the land is entered upon and possession taken for said purpose within two years after the laying out or alteration, the proceedings are void. (a)

SEC. 37. When a town way or highway is not opened and made passable by the town liable, or a hill therein has not been graded, 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 shall not be allowed without notice to the town. When the contract has been completed and the accounts allowed, the town shall 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 shall be issued by the commissioners to collect the same.

SEC. 38. When a highway is laid out through a town and an agent appointed by the county commissioners to open and make it, and the record location thereof cannot be found on the face of the earth or consistently applied thereto, or said agent is not making said highway according to the record location, the municipal officers or town agent, may file a bill in equity in the supreme judicial court, setting forth the facts aforesaid and praying an injunction to stay the proceedings of said road agent; and any justice of said court shall issue a summary notice to said road agent to appear before him to answer said petition; and on a hearing of the parties may issue a temporary injunction upon such terms and conditions as he deems reasonable; and subsequent proceedings on the bill shall be similar to proceedings in equity in other cases.

SEC. 39. Plantations required to assess a state or county tax, have like powers and are subject to like liabilities and penalties as towns respecting ways. Their assessors have like powers and shall perform like duties, as municipal officers of towns, respecting them.

ACTIONS FOR DAMAGES AND COSTS.

SEC. 40. A person entitled to receive payment of damages or costs,

(a) 12 Me., 237; 43 Me., 428; 59 Me., 543; 71 Me., 240.

may, after thirty days from demand on the treasurer of the county, or town, or on the party liable therefor, recover them in an action of debt.

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R.S., c. 18, § 31.
45 Me., 429.
See § 7.

WAYS IN PLACES NOT INCORPORATED.

SEC. 41. The county commissioners, on petition as provided in section one, may lay out, alter or discontinue a highway on any tract of land in their county, not within any town or plantation required to raise money to make and repair highways; and all expenses for making and opening the same shall be paid by the owners thereof, excluding lands reserved for public uses, in proportion to their interest in the lands over any part of which it is laid, except as provided in chapter six, section seventy-eight. (a)

County commissioners, authorized to lay out, alter, or discontinue highways in unincorporated townships.
R.S., c. 18, § 32.

SEC. 42. If they think that 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 shall take place until it is proved that such notice has been given.

Notice of hearing, how given.
R.S., c. 18, § 33.
38 Me., 495.

SEC. 43. 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. 18, § 34.

SEC. 44. Any party interested in such decision may appeal therefrom to the supreme judicial court, to be entered at the term thereof first held after such decision, in said county. And all further proceedings before the commissioners shall be stayed until a decision is made in the appellate court. If no person appears at that term to prosecute the appeal, the judgment of the commissioners shall be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested, the court shall appoint another in his place, and they shall cause notice to be given of the time and place of hearing before them, by publication thereof in the state paper for six successive weeks, the last publication to be fourteen days, at least, before the day of hearing, and personal notice to the appellant and to the chairman of the county commissioners, thirty days, at least, before the time set for hearing; they shall 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. If the judgment of the commissioners in favor of laying out, grading, or altering a way as prayed for, is wholly reversed on appeal, the commissioners shall proceed no further. If their judgment is affirmed in whole, or in part, they shall carry into effect the judgment of the appellate court; and in all cases, they shall carry into full effect the judgment of the appellate court, in the same manner as if made by

Appeal to supreme court.
1879, c. 107, § 1.
59 Me., 514.
63 Me., 570.
64 Me., 31.
72 Me., 248.
—further proceedings stayed.
—no person appearing to prosecute; proceedings.
—court to appoint committee of three.
—notice of time and place of hearing.
—committee to view route, hear parties, and report.
—acceptance of report; proceedings.
—if judgment of commissioners is reversed, they shall proceed no further; if affirmed, proceedings.
1575, c. 25, § 6.
—judgment of appellate court to be carried out.

(a) 3 Me., 133; 17 Me., 197; 27 Me., 294; 30 Me., 352; 33 Me., 458; 38 Me., 495; 46 Me., 346; 60 Me., 289; 63 Me., 255.

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—when
appellant or
prosecutor is
to pay costs.
—how col-
lected.

No new
petition for
one year.
1879, c. 107, § 2.

County com-
missioners
may lay out,
alter or dis-
continue
highways, on
same
petition.
1878, c. 64.

—proceed-
ings.

—appeal.

Petition for
increase of
damages on
appeal, when
filed.
1880, c. 218.

1874, c. 263, § 2.

Parties inter-
ested may
be heard by
commission-
ers, on peti-
tion for
laying out
highway.
1873, c. 25, § 5.
—may
appeal from
decision.
—stay of
proceedings.

On appeal,
committee
appointed;
proceedings.

themselves; 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 shall be the same as commissioners would have for like services, to be allowed by the court. The costs allowed to the prevailing party, and the fees of the committee shall be collected as provided in section three.

SEC. 45. If the final decision of the commissioners or of the committee is against the prayer of the petition, no new petition for the same road shall be entertained by the commissioners for one year thereafter.

SEC. 46. County commissioners in their counties may, upon the same petition, lay out, alter, or discontinue highways, through a town or towns, or a plantation or plantations, and tracts of land not in any town or plantation, and in respect to that part of the highway situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue highways leading from town to town; and in respect to that part of the highway not situate in any town or plantation required by law to raise money to make and repair highways, the same proceedings shall be had as are now provided by law in case of a petition to lay out, alter, or discontinue a highway in places not incorporated. The time and place of hearing upon such petition shall be according to section forty-two; in case of an appeal to the supreme judicial court, the appeal may be made at any time after the return of the commissioners has been placed on the files, and before the next term of said court in the county; and the proceedings upon the appeal shall be according to section forty-four. If no appeal is made, the case shall be continued to the next regular term after the regular term to which the return is made.

SEC. 47. When an appeal is taken on the location of a way, petitions for increase of damages may be filed within sixty days after final decision in favor of such way.

WAYS IN INCORPORATED PLACES.

SEC. 48. Parties interested may appear jointly or severally, at the time of hearing, before the commissioners, on a petition for laying out, altering, grading, or discontinuing a highway; and any such party may appeal from their decision thereon, at any time after it has been placed on file, 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 shall be stayed until a decision is made in the appellate court. (a)

SEC. 49. 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

(a) 32 Me., 454; 42 Me., 400; 51 Me., 194, 385; 63 Me., 29, 570; 64 Me., 435, 437, 586; 68 Me., 407.

disinterested persons, who shall be sworn, and if one of them dies, declines, 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. (a)

SEC. 50. If the judgment of the commissioners in favor of laying out, grading, or altering a way, as prayed for, is wholly reversed on appeal, they shall proceed no further; and in all cases when the judgment of the commissioners is reversed on appeal, no petition praying, substantially, for the same thing 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; and in all cases they shall carry into full effect the judgment of the appellate court in the same manner as if made by themselves; 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 shall be the same as commissioners would have for like services, to be allowed by the court. The costs allowed the prevailing party, and the fees of the committee, shall be collected as provided in section three; *provided, however*, that this section shall not apply to any case where the judgment has been reversed on account of informality in the proceedings.

SEC. 51. All such committees, whether agreed on or appointed on appeal from the county commissioners, may be sworn at any time before viewing the route and hearing the parties.

LIABILITY FOR REPAIR OF WAYS, AND FOR INJURIES.

SEC. 52. Highways, town ways and streets, legally established, shall be opened and kept in repair so as to be safe and convenient for travellers with horses, teams and carriages. In default thereof, those liable may be indicted, convicted, and a reasonable fine imposed therefor. (b)

SEC. 53. When a town liable to maintain a way, unreasonably neglects to keep it in repair, as aforesaid, after one of the municipal officers

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R.S., c. 18, § 38.
8 Me., 146.
11 Me., 473.
31 Me., 447.
32 Me., 454.
33 Me., 370.
37 Me., 448.
42 Me., 400.
53 Me., 387,
434.
56 Me., 262.

If judgment of commissioners is reversed, no further proceedings.
1877, c. 199.
1875, c. 25, § 6.
—if judgment is affirmed, shall carry into effect judgment of appellate court.
32 Me., 473.
42 Me., 401.
53 Me., 86.
59 Me., 451.
67 Me., 531.
68 Me., 485.

—costs.

—compensation of committee.

—proviso.

Committee agreed on or appointed, when to be sworn.
1875, c. 25, § 8.

Ways to be kept open and in repair.
R.S., c. 18, § 40.

Towns neglecting to repair ways,

(a) 59 Me., 263, 514; 63 Me., 111; 64 Me., 586.

(b) Ways not established by statute provisions. 2 Me., 60; 3 Me., 273; 4 Me., 272; 5 Me., 368; 11 Me., 280; 18 Me., 68, 412; 21 Me., 174; 25 Me., 299; 35 Me., 104, 169; 37 Me., 70; 40 Me., 155; 42 Me., 23; 46 Me., 427; 47 Me., 344; 48 Me., 457; 51 Me., 260; 54 Me., 364; 56 Me., 348; 73 Me., 54.

Ways presumed to be legally established. 34 Me., 245; 37 Me., 55, 507; 39 Me., 300.

Liability for repair. 5 Me., 256; 15 Me., 407; 16 Me., 189; 18 Me., 287; 35 Me., 104; 36 Me., 397; 37 Me., 251; 38 Me., 221; 46 Me., 485; 51 Me., 128, 131, 533; 57 Me., 533, 536; 62 Me., 105, 470, 472; 63 Me., 477, 550-1; 64 Me., 60; 65 Me., 37, 286, 515, 550; 68 Me., 153, 360; 69 Me., 197.

Traveller and negligence. 62 Me., 470, 472; 67 Me., 166; 70 Me., 306.

Generally. 12 Me., 301; 58 Me., 57; 68 Me., 499.

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three persons may petition commissioners. 1879, c.115, § 1.

—commissioners to fix time and place for hearing, and give notice.
—view the way and hear parties.

—prescribe repairs to be made and fix time for making.

—if they find way safe, shall dismiss petition and award costs against petitioners.
—if way repaired since.

Petition, how and when presented. 1879, c.115, § 2.

—commissioners to make full return of their proceedings.

Towns neglecting to make repairs. 1879, c.115, § 3.

—agent to be appointed.

—notice upon his account.

—towns liable for his account when allowed.

—when warrant of distress to issue therefor.

Ways on line between towns, how divided. R.S., c.18, § 41.

52 Me., 214.
74 Me., 201.

—liability of towns.

has had five days' actual notice or knowledge of the defective condition, any three or more responsible persons may petition the county commissioners for the county, setting forth such facts, who, if satisfied that such petitioners are responsible for the costs of the proceedings, shall fix a time and place near such defective way, for a hearing on such petition, and cause such notice thereof to be given to the town and petitioners as they may prescribe. At the time appointed, the commissioners shall view the way, alleged to be out of repair, and hear the parties interested, and if they adjudge the way to be unsafe and inconvenient for travellers, horses, teams and carriages, they shall prescribe what repairs shall be made, fix the time in which the town shall make them, give notice thereof to the municipal officers and award the costs of the proceedings against the town. If they adjudge the way to be safe and convenient, they shall dismiss the petition and award the costs against the petitioners. If they find that the way was defective at the time of presentation of the petition, but has been repaired before the hearing, they may award the costs against the town, if in their judgment justice requires it.

SEC. 54. Such petition may be presented to said commissioners at any of their sessions, or in vacation to their chairman, who shall procure the concurrence of his associates in fixing the time and place in the order of notice, and cause the petition to be entered at their next session. And they shall make full return of their proceedings on the petition, and cause the same to be recorded as of their next regular term after the proceedings are closed.

SEC. 55. If the town neglects to make the repairs prescribed by the commissioners, within the time fixed therefor in such notice to the town, they may cause it to be done by an agent, not one of themselves. Such agent shall cause the repairs to be made forthwith, and shall render to the commissioners his account of disbursements and services in making the same. His account shall not be allowed without such notice to the town, as the commissioners deem reasonable. When the account is allowed, the town becomes liable therefor, with the agent's expenses in procuring the allowance of his account, and interest after such allowance, and said commissioners shall render judgment therefor against the town in favor of the agent. If the town neglects to pay said judgment for thirty days after demand, a warrant of distress shall be issued by the commissioners to collect the same.

SEC. 56. 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 shall 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. CHAP. 18.

SEC. 57. 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.

Ways laid out between towns, how divided, for repair, &c. R.S., c. 18, § 42. 52 Me., 214.

SEC. 58. 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 May, make a written assignment of his division and limits to each surveyor of highways, to be observed by him.

Town officers to assign limits to surveyors by May 10. R.S., c. 18, § 43. 72 Me., 517.

SEC. 59. Each town shall annually raise money to be expended on the town ways 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 upon them to be expended within his limits. Two thirds thereof shall be so expended before the first day of the next July.

Towns to raise money. —lists to surveyors by May 10; two thirds to be expended by July 1. R.S., c. 18, § 44. 72 Me., 517.

SEC. 60. 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 plough, 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.

See c. 3, § 46. Surveyors' duties. R.S., c. 18, § 45. 42 Me., 377. 69 Me., 65. 72 Me., 517.

SEC. 61. When such ways within his limits are blocked or encumbered 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 to be trodden. —sudden injuries, to be repaired. R.S., c. 18, § 46. 62 Me., 105. See c. 50, § 8.

SEC. 62. 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, and the municipal officers of towns, or highway surveyors under their direction, may take down fences upon the line of public highways when they deem it necessary to prevent the drifting of snow therein; but they shall in due season be replaced, in as good condition as when taken down, without expense to the owner.

Mail routes, apparatus for opening. R.S., c. 18, § 47. —fences may be taken down by town officers to prevent drifting. —to be replaced.

SEC. 63. Each surveyor, at the expiration of his term, shall render to the assessors a list of such persons as have not worked out or paid their taxes. In their next assessment of town taxes on such delinquents, the assessors shall place in distinct columns, the amounts due from each, to be collected as other town taxes, and paid to the treasurer; and the treasurer shall hold the same, subject to the order of the selectmen, to be applied by them for repairs of roads and bridges. (a)

Surveyors to return list of delinquent tax payers to assessors. 1881, c. 15. —amount to be re-assessed.

SEC. 64. A sum not exceeding five per cent. of the amount committed to him, may be expended by a surveyor, under the direction of the

Trees may be planted. R.S., c. 18, § 49.

CHAP. 18. municipal officers, in planting trees about public burying-grounds, squares, and ways within his district, if the town by vote authorizes it.

See § 17;
c. 3, § 59, ¶ 6.
Materials
may be taken
from lands
not inclosed
or planted.
R.S., c. 18, § 50.

SEC. 65. A surveyor within his district may remove any obstacle, which obstructs or is likely to obstruct a way, or 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 to the ways. If the land from which such materials were taken is not within the limits of the way, the owner of it shall 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. (a)

Duties of
road com-
missioners
and highway
surveyors.
R.S., c. 18, § 51.

SEC. 66. Road commissioners and highway surveyors shall go over their highway districts, or cause it to be done, in April, May, June, August, September, October and November in each year, remove the loose obstructions to the public travel, and repair such defects as may occur from time to time, rendering travel dangerous, or they shall give notice of such defects to the municipal officers, under a penalty of five dollars for neglect of such duty, to be recovered by complaint, half to the town, and half to the complainant.

—penalty for
neglect of
duty.

SEC. 67. No surveyor, without written permission from the municipal officers, shall cause a water-course to be so constructed by the side of a way as to incommode any person's house or other building, or to obstruct any one in the prosecution of his business. Any person so aggrieved may complain to the municipal officers, who shall view the water-course and may cause it to be altered as they direct.

Water-
courses not to
be so made as
to do injury:
remedy.
R.S., c. 18, § 52.
32 Me., 327.
63 Me., 480.

SEC. 68. When a way or street is raised or lowered by a surveyor or person 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 have been occasioned thereby, to be paid by the town, and any person aggrieved by said assessment, on petition to the county commissioners, may have them assessed in the manner provided respecting highways.

Damages by
raising or
lowering
streets, how
determined.
1874, c. 246.
43 Me., 332.
65 Me., 592.
1883, c. 175,
§§ 3, 4.
See § 8.

SEC. 69. When the amount 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 on such ways, to an amount not exceeding fifteen per cent. of the sum committed to him, and in addition thereto. (b)

When sur-
veyors may
expend more
than taxes.
R.S., c. 18, § 54.

SEC. 70. 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.

Towns may
raise and as-
sess moneys
for bridges,
and ways.
R.S., c. 18, § 55.

SEC. 71. 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 con-

Wide wheels
and watering
troughs,
abatement
for.
R.S., c. 18, § 56.
57 Me., 539.
67 Me., 138.

(a) 11 Me., 274; 13 Me., 254; 16 Me., 190; 25 Me., 128; 32 Me., 326; 38 Me., 221; 43 Me., 332; 51 Me., 359; 66 Me., 235; 68 Me., 361, 499.

(b) 3 Me., 446; 13 Me., 294; 30 Me., 159; 34 Me., 406; 51 Me., 352; 55 Me., 437.

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struct, 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 shall decide where it shall be located. Such officers may establish and maintain such public drinking troughs, wells and fountains within the public highways, squares and commons of their respective towns, as in their judgment the public necessity and convenience require; and towns may raise and appropriate money to defray the expense thereof.

—town officers may establish public drinking troughs and fountains. 1874, c. 254.

SEC. 72. 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.

Ways may be opened or repaired by contract. R.S., c. 18, § 57. —surveyors or collector may collect when tax is not paid. 15 Me., 248. 68 Me., 498.

SEC. 73. Surveyors shall 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. Whoever unreasonably neglects to do so forfeits twenty dollars to the town, to be recovered in an action of debt.

Surveyors to exhibit their bills to selectmen. R.S., c. 18, § 58.

SEC. 74. Money remaining in their hands, not expended at the expiration of their offices, shall 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.

They are to pay balance in their hands to treasurer. R.S., c. 18, § 59.

SEC. 75. Towns, at their annual meetings, may elect one and not exceeding five road commissioners. They shall be sworn; and vacancies may be filled at any legal town meeting. Except as hereafter provided, they shall have the powers and are 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.

Road commissioners may be chosen; duties. R.S., c. 18, § 60. See c. 3, § 14.

SEC. 76. The assessors shall 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 shall notify the persons taxed and require of them the performance of like labor in like manner, as surveyors might. Their certificate to the assessors is evidence of notice, and of the neglect of any person who does not perform.

Road commissioners, their powers and duties. R.S., c. 18, § 61.

SEC. 77. Such 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

Non-residents, how notified. R.S., c. 18, § 62.

CHAP. 18. 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.

Taxes of delinquents, how collected.
R.S., c. 18, § 63.
20 Me., 299.

SEC. 78. The taxes of such delinquents may be collected as other town taxes, by the collector, by one of the commissioners, or by a person designated by them to the assessors. Such collector or person shall be sworn and give bond approved by the commissioners for the faithful discharge of his duties. The assessors shall 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 shall 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 shall have like powers and be subject to like obligations, to compel such account and payment, as he has in regard to collectors of town taxes.

Towns may allow discount for payment in money.
R.S., c. 18, § 64.

SEC. 79. Towns may at their annual meeting authorize road commissioners to receive money in payment of taxes and if paid before they have been certified as delinquent, allow therefor, such discount from the taxes as the town may determine. When more than one commissioner is chosen, the municipal officers shall name one of them to be chairman, who shall keep the rate bills, and a record of money received and paid, and hold the money subject to payment, as the commissioners order. He shall 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 shall give bond in like manner, and be responsible for the performance of all duties pertaining to the office.

—road commissioners to give bond and keep account.

Persons injured by defect in highways may recover damages.
1877, c. 206, § 1.

SEC. 80. Whoever receives any bodily injury, or suffers damage in his property, through any defect or want of repair or sufficient railing, in any highway, town way, causeway or bridge, may recover for the same in a special action on the case, to be commenced within one year from the date of receiving such injury, or suffering damage, of the county or town obliged by law to repair the same, if the commissioners of such county, or the municipal officers, highway surveyors or road commissioners of such town, had twenty-four hours' actual notice of the defect or want of repair; but not exceeding two thousand dollars in case of a town; and if the sufferer had notice of the condition of such way previous to the time of the injury, he cannot recover of a town unless he has previously notified one of the municipal officers of the defective condition of such way; and any person who sustains injury or damage, as aforesaid, shall within fourteen days thereafter, notify one of the county commissioners of such county, or of the municipal officers of such town, by letter or otherwise, in writing, setting forth his claim for damages and specifying the nature of his injuries and the nature and location of the defect which caused such injury. If the life of any person is lost through such deficiency, his executors or administrators may recover of such county or town liable to keep the same in repair, in an action on the case, brought for the benefit of the estate of the deceased, such sum as the jury may deem reasonable as damages, if the parties liable had said notice of the deficiency which caused the loss of life; at the trial of any

—limitation.
1879, c. 156, § 1.
—when sufferer must give previous notice.
1879, c. 156, § 3.
—county commissioners or town officers must be notified in writing within 14 days.

—loss of life, damages for, how recovered.

such action the court may, on motion of either party, order a view of the premises where the defect or want of repair is alleged, when it would materially aid in a clear understanding of the case. (a)

SEC. 81. When on trial of any such action or indictment, it appears that the defendant has, within six years before the injury, made repairs on the way or bridge, he shall not deny its location. (b)

SEC. 82. 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 must be made by the plaintiff.

SEC. 83. No town is liable to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk, nor on account of the slippery condition of any sidewalk or cross-walk.

SEC. 84. In an action against a town for damages alleged to have occurred by reason of a defect in a railroad crossing, constituting part of a highway which said town is obliged to keep in repair, the railroad company owning or occupying such crossing, may be notified of the pendency of the suit, and take upon itself the defence of the same.

SEC. 85. In such trial, after notice as provided in the preceding section, if the plaintiff recovers, and the jury finds specially that the damage was occasioned by the fault of such company, it shall be liable to the defendants in said suit in an action of debt for all damage and costs paid by them.

SEC. 86. The notice required in section eighty-four, shall be by copy of the writ served upon the company at least thirty days before the sitting of the court to which it is returnable, or by such notice as the court may order after entry.

SEC. 87. One indictment only for neglect to open ways or to keep them in repair shall be presented against a town at the same term of 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 includes town ways, causeways, and bridges.

(a) When and how ways should be constructed. 18 Me., 288; 26 Me., 340; 33 Me., 460; 39 Me., 115; 46 Me., 485.

Defective ways. 11 Me., 273; 14 Me., 200, 203; 16 Me., 189; 17 Me., 201; 18 Me., 287; 26 Me., 239; 32 Me., 49; 35 Me., 104; 36 Me., 398; 37 Me., 251; 39 Me., 115; 42 Me., 253, 526; 46 Me., 485; 51 Me., 186, 314, 533; 55 Me., 48; 56 Me., 17; 62 Me., 470; 64 Me., 60, 62; 65 Me., 285; 66 Me., 348, 402; 68 Me., 366; 69 Me., 73; 72 Me., 250, 540; 74 Me., 536.

Damage. 14 Me., 205; 16 Me., 191; 20 Me., 248; 29 Me., 311; 31 Me., 301; 32 Me., 273, 538; 33 Me., 272; 41 Me., 533; 50 Me., 223; 51 Me., 440; 61 Me., 203.

Defect sole cause of damage. 18 Me., 288; 20 Me., 50; 32 Me., 50, 576; 38 Me., 206, 445; 42 Me., 335, 347; 43 Me., 496; 51 Me., 127; 61 Me., 572; 64 Me., 53; 65 Me., 550; 66 Me., 402; 68 Me., 154; 69 Me., 73; 74 Me., 533.

Due care. 11 Me., 337; 14 Me., 200; 18 Me., 288, 381; 21 Me., 31; 26 Me., 240; 31 Me., 301; 32 Me., 54, 576; 38 Me., 207, 445; 42 Me., 336; 43 Me., 496; 50 Me., 224; 64 Me., 544; 65 Me., 285; 70 Me., 306; 72 Me., 541.

Notice of defects. 7 Me., 445; 21 Me., 31; 23 Me., 558; 32 Me., 272; 42 Me., 203; 51 Me., 533; 56 Me., 17; 68 Me., 360, 513; 69 Me., 74; 70 Me., 123; 72 Me., 252; 74 Me., 147, 333.

Notice of claim. 64 Me., 134; 66 Me., 333, 454, 549; 68 Me., 513; 69 Me., 196; 70 Me., 124; 73 Me., 486.

Evidence. 15 Me., 27; 31 Me., 301; 33 Me., 460; 35 Me., 104; 37 Me., 251; 39 Me., 301. Generally. 12 Me., 301; 57 Me., 376; 63 Me., 477, 550; 65 Me., 37, 38; 67 Me., 167; 69 Me., 280.

(b) 5 Me., 368; 12 Me., 237; 51 Me., 187; 54 Me., 94; 58 Me., 349; 66 Me., 349.

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—view may be ordered at trial.

Repair within six years, proof of way. R.S., c. 18, § 66.

No liability if load exceeds 6 tons. R.S., c. 18, § 67.

Slippery sidewalk no cause of action for pedestrian. 1879, c. 156, § 2.

Railroad company may assume defence of suit against town for defective R. crossing. 1871, c. 186, § 1.

Liability of railroad company. 1871, c. 186, § 2. 66 Me., 486.

Notice to company. 1871, c. 186, § 3.

One indictment only at a term. R.S., c. 18, § 68. See c. 1, § 6, ¶ 6. See c. 19, § 1. 18 Me., 69. 59 Me., 452.

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Surveyors responsible for defects, in case of neglect.
R.S., c. 18, § 69.
51 Me., 352.
68 Me., 499.

Agents appointed to expend fines; their duties.
R.S., c. 18, § 70.
65 Me., 212.

Clerk of court to certify fines to assessors; how collected and paid.
R.S., c. 18, § 71.
65 Me., 211.
c. 6, § 101.

If way is not repaired in four months, fine to be collected.
R.S., c. 18, § 72.

When gates, bars, and fences on ways may be removed.
R.S., c. 18, § 73.
12 Me., 38.
59 Me., 144.

Surveyors may remove logs and lumber as a nuisance; proceedings.
R.S., c. 18, § 74.
—materials may be sold by surveyor.
12 Me., 38.
35 Me., 253.
46 Me., 485.
47 Me., 162.
51 Me., 262.
54 Me., 47.
68 Me., 361.

Persons convicted of nuisance to pay, if materials are not sufficient.
R.S., c. 18, § 75.

SEC. 88. When a fine is imposed, as provided in section fifty-two, 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 was occasioned by his neglect, to expend the money in his rate bill, or to give notice of any deficiency thereof to the municipal officers.

SEC. 89. All fines imposed shall be appropriated to the repair of such ways. The court imposing them shall appoint one or more agents to superintend their collection and application. Within three months after collection, they shall 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 to the town double its amount, to be recovered by indictment.

SEC. 90. When a fine is imposed on a town, the clerk of the court shall certify it forthwith to the assessors; who shall assess the amount thereof, as other town taxes, certify the same to said clerk, and cause the amount to be collected by their collector, who shall 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, shall issue a warrant for its collection, as the treasurer of state may do for the collection of a state tax.

SEC. 91. 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. 92. Any person may take down and remove gates, bars, or fences, upon or across any highway or town 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. 93. 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 loss or damage thereof, unless occasioned by design or gross negligence. When no one appears to pay the expense and trouble of removal, he may sell at public auction so much thereof, as is sufficient for the purpose, with charges of sale, 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 wilful default they were left, may be prosecuted as for a nuisance.

SEC. 94. 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. 95. 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 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. (a)

SEC. 96. Towns shall erect and maintain at all crossings of highways, and where one public highway enters another, substantial guide-posts not less than eight feet high, and fasten to the upper end of each a board, on which shall be plainly printed, in black letters on 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 a figure of a hand with the forefinger pointing thereto; and for any neglect herein, towns are subject to indictment, and fine not exceeding fifty dollars.

SEC. 97. If the municipal officers of any town unreasonably neglect to cause a guide-post to be erected in their town as provided by law, they forfeit five dollars for each month's neglect, to be recovered in an action on the case by any person suing therefor. Plantations assessed in state or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

SEC. 98. Persons desiring to make 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; such officers 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 the town, in an action on the case, for all damages occasioned by the repair of the way, or paid to persons injured by defects therein, caused by such excavation.

SEC. 99. Ice bridges may be constructed and maintained by persons for their own and the public use across any river or body of water, when its ordinary navigation is obstructed by ice. Whoever wilfully destroys such bridge to prevent its use, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint, half to the complainant, and half to 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.

SEC. 100. When four or more persons are owners and occupants of a private way or bridge, any three of them may make 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 shall be posted at some public place in the town seven days before such time. When so assembled they may choose a clerk and a surveyor, to be sworn, and they may determine what repairs are necessary, and the

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When buildings and fences on a street or way for 20 years become bounds; when it takes 40 years.
R.S., c. 18, § 76.
See c. 17, § 10.
Towns required to maintain guide posts at crossings of ways.
R.S., c. 18, § 77.
72 Me., 287.

—penalty for neglect.

Town officers to erect guide-posts.
—penalty for neglect.
—plantations obligated as towns.
R.S., c. 18, § 78.
72 Me., 287.

Excavations near ways, how to be made; responsibilities.
R.S., c. 18, § 79.
54 Me., 47.
57 Me., 377.

Ice bridges may be made.
R.S., c. 18, § 80.
18 Me., 435.

—protected.

—proviso.

Owners of private ways and bridges may call meetings; proceedings.
R.S., c. 18, § 81.

(a) 59 Me., 144; 73 Me., 359.

CHAP. 18. proportion of labor and materials to be furnished by each owner; and the manner of calling future meetings.

Surveyor's duties; penalty for neglect of owners to pay.
R.S., c. 18, § 82.

SEC. 101. 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 or 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 repair, and cause money to be assessed and collected.
R.S., c. 18, § 83.

SEC. 102. 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 shall deliver their assessment with a warrant for its collection to the surveyor. Such warrant shall be in substance such as is prescribed for collection of town taxes. The surveyor shall collect the same as taxes for highways are collected; and be liable for neglect of duty, as surveyors of highways are for similar neglects.

See c. 6, § 122.
See §§ 60, 73.

Penalties and process.
R.S., c. 18, § 84.

SEC. 103. 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.

CHAPTER 19.

LAW OF THE ROAD.

- SEC. 1.** Definition of words "way" and "team", when used.
2. Teams to turn to the right; if unable to turn, must stop.
3. When stationary, or travelling slowly, must 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 must walk on bridges if boards forbidding faster driving are conspicuously exposed.
8. Penalty for fast driving.
9. Driver of team with passengers not to leave it without charge or fastening. Punishment therefor.
10. Certain teams to have wide rimmed wheels on a certain road in Washington county. Penalty for violation. Teams may be seized and detained.

Definitions.
R. S., c. 19, § 1.
See c. 1, § 6,
¶ 6; c. 18, § 87.

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.

Travellers to turn to the right; if unable to turn, must stop.

SEC. 2. When persons travelling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the travelled part of it, so far that they can pass each other without inter-