

MAINE STATE LEGISLATURE

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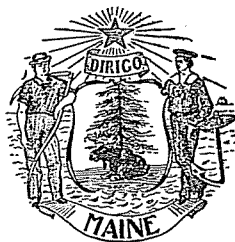
FIFTH REVISION.

THE
REVISED STATUTES

OF THE
STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :
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CHAPTER 23.

WAYS.

LOCATION, ALTERATION AND DISCONTINUANCE OF HIGHWAYS.

County commissioners may lay out, alter or discontinue, all county roads. R. S., c. 18, § 1.

Notice, how given, proved and recorded. R. S., c. 18, § 2. 19 Me., 343. 30 Me., 305. 68 Me., 406, 497. 83 Me., 116.

Costs paid by petitioners on failure. R. S., c. 18, § 3. 2 Me., 54. 3 Me., 105. 68 Me., 497. 83 Me., 115. Proceedings before co. com'rs. R. S., c. 18, § 4.

—return.

—shall erect durable monuments. See § 11.

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)

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.

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.

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 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. (b)

(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; 77 Me., 130; 78 Me., 156; 79 Me., 526; 87 Me., 151.

Petition. 2 Me., 53; 3 Me., 105; 26 Me., 356, 408; 32 Me., 568; 37 Me., 119; 63 Me., 114; 68 Me., 407, 497; 78 Me., 537; 80 Me., 44.

(b) 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; 78 Me., 172; 79 Me., 528; 83 Me., 116; 89 Me., 252; 91 Me., 51.

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; 81 Me., 411; 83 Me., 523.

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.

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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 be continued to their next regular term, and at any time on or before the third day thereof, if no appeal from the location be taken, 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. But if an appeal from the location be taken in accordance with section fifty-two, then notice of appeal on damages may be filed with the clerk of the county commissioners within sixty days after the final decision of the appellate court in favor of such way, has been certified to him, to the supreme judicial court first held in the county where the land is situated, more than thirty days after such notice of appeal is filed, which court shall determine the same in the same manner as is provided in section eight, when no appeal on location is taken. (a)

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. But the provisions of this section shall not apply when a location has been determined by a committee of the supreme judicial court upon appeal from the decision of the county commissioners thereon. In such case proceedings regarding the location shall become effectual as if no appeal for increase of damages had been taken.

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.

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

(a) Filing and recording return. 31 Me., 272; 32 Me., 568; 42 Me., 399; 59 Me., 391; 63 Me., 28; 83 Me., 522.

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

Return to be filed with clerk.
R. S., c. 18, § 5.
1887, c. 81, § 1.

—proceedings.
59 Me., 391.
78 Me., 101, 169.

—notice of appeal, from estimate of damages.

—in case of appeal from location, when appeal on damages to be filed.

Proceedings before and after decision respecting increase of damages.
R. S., c. 18, § 6.
1897, c. 269, § 1.
63 Me., 28.
78 Me., 173.

—provisions of this section shall not apply, when location has been determined upon appeal.

Damages, how estimated; to whom awarded; when to be paid.
R. S., c. 18, § 7.
71 Me., 140.
84 Me., 54.
91 Me., 51.
93 Me., 127.

Appeal from commissioners to supreme court.
R. S., c. 18, § 8.
1885, c. 359, § 3.

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—by agreement, appeal may be determined by committee of reference.
 21 Me., 390.
 77 Me., 181.
 78 Me., 173.
 83 Me., 535.
 84 Me., 54.
 89 Me., 313.
 91 Me., 51.
 96 Me., 249.

—appellant to file notice of appeal with county commissioners.

—costs.

Time allowed for removing growth, and opening way.
 R. S., c. 18, § 9.
 1897, c. 269, § 2.

Way discontinued before damages paid, proceedings.
 R. S., c. 18, § 10.
 93 Me., 130.

County commissioners to preserve boundaries of highways by durable monuments.
 R. S., c. 18, § 11.

—municipal officers to preserve and replace them.
 See § 4.

—proceedings when an appeal is taken for increase of damages.
 1891, c. 41.
 83 Me., 42.

Petitions respecting ways in two or more counties, proceedings on them.
 R. S., c. 18, § 12.
 —notices.
 52 Me., 213.
 65 Me., 214.

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 for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. 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, and order the damages therein recovered to be paid as provided in section seven. 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. The compensation of the committee shall be the same as commissioners would have for like services, to be allowed by the court and paid from the county treasury upon the certificate of the clerk of courts.

SEC. 9. The owners of land taken shall be allowed not exceeding one year after the proceedings, regarding the location, are finally closed to take off timber, wood or any erection thereon. A time not exceeding two 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.

If any appeal for increase of damages is taken, and the commissioners are of opinion that their proceedings hereunder, or any part thereof, ought not to take effect, they shall enter a judgment that the prayer of the original 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.

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 pub-

(a) See § 38; 8 Me., 137; 39 Me., 116; 64 Me., 409; 84 Me., 100.

lished in the state paper and in one paper, if any, printed in 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.

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.

SEC. 14. When proceedings have been had by the county commissioners on a petition for laying out, altering, grading or discontinuing a way in two or more counties, an appeal may be taken in the manner provided in case of a way wholly in one county.

SEC. 15. When an appeal is so taken, it shall be filed with the commissioners of, and subsequent proceeding shall be had in, the county where proceedings originated and the commissioners with whom such appeal is filed shall immediately give notice of such appeal to the commissioners of all the counties interested, and the clerk of courts shall certify the final judgment of court to the commissioners of all said counties.

Proceedings, how continued and closed.
R. S. c. 18, § 13.
25 Me., 292.
45 Me., 424.
52 Me., 213.
73 Me., 57.

Appeals, how taken.
1891, c. 5, § 1.

Proceedings in cases of appeals.
1891, c. 5, § 2.
86 Me., 142.

TOWN AND PRIVATE WAYS.

SEC. 16. The municipal officers of a town may on petition therefor, personally or by agency, lay out, alter or widen town ways, and private ways for any inhabitant or for owners of cultivated land therein, if such inhabitant occupies, or such owner has cultivated land in the town which such private way will connect with a town way or highway. 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)

SEC. 17. 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 of such location for the benefit of the owner of the land over which it is laid, and the expenses of such location, 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 traveling on such way.

SEC. 18. 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.

(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; 83 Me., 250.

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; 84 Me., 101.

Legality of proceedings. 2 Me., 60; 10 Me., 25; 12 Me., 275; 25 Me., 71; 26 Me., 178; 32 Me., 568; 61 Me., 439; 83 Me., 123; 88 Me., 31; 89 Me., 251; 91 Me., 449.

Power of municipal officers respecting town and private ways.—notice, how given.
R. S. c. 18, § 14.
—duty of officers in laying out way.

Municipal officers may lay out a winter road for hauling wood, hay, lumber, etc.
R. S. c. 18, § 15.

—return of location.

—town not liable for damage.

After municipal officers have laid out, town may accept.

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R.S., c. 18, § 16.
1885, c. 359, § 4.

Towns may
discontinue
ways.
R. S., c. 18, § 17.

Damages for
ways, how es-
timated and
paid.
R. S., c. 18, § 18.
1897, c. 214.

—appeal may
be taken to
supreme ju-
dicial court.

Town or pri-
vate way, neg-
lect or refusal
of municipal
officers to lay
out or alter;
proceedings.
R. S., c. 18, § 19.
See §§ 1-4.

—county com-
missioners to
hear and de-
cide.

—appeal.
1889, c. 251.

The way is not established until it has been accepted in a town meeting legally called after the return has been filed, by a warrant containing an article for the purpose. (a)

SEC. 19. A town, at a meeting called by warrant containing an article for the purpose, may discontinue a town or private way; and the municipal officers shall estimate the damages suffered by any person thereby. (b)

SEC. 20. 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. Any person aggrieved by the estimate of such damages may have them determined as provided in section eight, by written complaint to the supreme judicial court, returnable at the term thereof next to be held within the county where the land lies, after sixty days from the date of the establishment, alteration or discontinuance of such way by the town at its town meeting. The complaint shall be served at least thirty days before said term by delivering in hand an attested copy to the clerk of the town where the land lies, and by posting attested copies in two public and conspicuous places within said town and in the vicinity of the way. But the final judgment shall be recorded in said court, and shall not be certified to the county commissioners. When any person aggrieved by the estimate of damages for his land taken for a town or private way, honestly intended to appeal therefrom and has by accident or mistake omitted to take his appeal within the time provided by law, he may at any time within six months after the expiration of the time when said appeal might have been taken, apply to any judge of the supreme judicial court in term time or vacation, stating in his said application the facts of his case, and said judge, after due notice and hearing, may grant to such petitioner permission to take his said appeal to such term of said court as said judge shall direct, and on such terms as said judge shall order, and the subsequent proceedings thereon shall be the same and with the same effect as if said appeal had been seasonably taken. (c)

SEC. 21. 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

(a) 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; 89 Me., 251.

(b) 37 Me., 55, 71; 45 Me., 607; 69 Me., 440; 83 Me., 118.

(c) 11 Me., 265, 424; 12 Me., 212; 17 Me., 201; 19 Me., 316, 343; 21 Me., 391; 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; 83 Me., 535; 95 Me., 50.

decision of the commissioners is returned and placed on file such owner or tenant or other party interested has the same right to appeal to the supreme judicial court as is provided in sections fifty-two to fifty-five inclusive; and also to have his damages estimated as provided in section eight. (a)

SEC. 22. 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.

When such way may be opened.
R. S., c. 18, § 20.
91 Me., 51.

SEC. 23. 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 twenty-one, 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. (b)

Towns unreasonably refusing to accept, or to discontinue.
R. S., c. 18, § 21.

SEC. 24. 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. com'rs cannot be acted on by towns for what time.
R. S., c. 18, § 23.
See § 1.
91 Me., 47.

SEC. 25. 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. com'rs may fix amount of grading.
R. S., c. 18, § 24.
—order half the expenses to be paid by the county.

SEC. 26. 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 way, 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 twenty days after said meeting; and any person aggrieved by the estimate of damages may have them determined in the manner provided in section twenty 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.
R. S., c. 18, § 25.

—damages.
See § 16.

—proviso.

SEC. 27. When land has been plotted and a plan thereof made, whether recorded or not, showing the proposed location of streets thereon, and lots have been sold by reference to said plan, the municipal officers of the town or city where such land is situated, may on petition of owners of the fee in such of said proposed streets as are named in the petition, vacate in whole or in part the proposed location of any or all such streets as have not been accepted and located as public ways. The proceedings shall be the same as in case of the location of town ways. All damages

Municipal officers may vacate location of streets in certain cases.
1903, c. 39.

—proceedings.

(a, b) 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; 78 Me., 106; 83 Me., 246, 430; 84 Me., 53; 87 Me., 223, 229; 88 Me., 31, 140.

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—damages, by whom paid, and how determined.

Lands shall not be taken from a railroad for any way without notice and hearing.
R. S., c. 18, § 26.
84 Me., 100.
86 Me., 391.

Ways, crossing railroad tracks, how laid out.
R. S., c. 18, § 27.
1899, c. 73, § 1.
See c. 51, §§ 65, 66.

—manner and conditions of crossing, to be determined by railroad commissioners.

—expense of building, how borne.

—commissioners shall report to railroad corporations and municipal officers.

—appeal may be taken to supreme judicial court.

—proceedings.

—costs, how taxed.

Such ways already laid out, how maintained.
R. S., c. 18, § 28.

Ways over lands used for stations.

thereby occasioned shall be paid by the petitioners, and parties aggrieved by the estimate of damages may have them determined in the manner provided respecting damages caused by the location of town ways and with the same right of appeal.

SEC. 28. 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.

SEC. 29. 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 before such way shall be constructed, the railroad commissioners, on application of the municipal officers of the city or town wherein such way is located, or of the parties owning or operating the railroad, shall, upon notice and hearing, determine whether the way shall be permitted to cross such track at grade therewith or not, and the manner and conditions of crossing the same and the expense of building and maintaining so much thereof as is within the limits of such railroad shall be borne by such railroad company, or by the city or town in which such way is located, or shall be apportioned between such company and city or town, as may be determined by said railroad commissioners. Said commissioners shall make a report in writing of their decision thereupon, file the same in their office and cause to be sent by mail or otherwise to each of the railroad corporations, and the municipal officers of the city or town as the case may be, interested therein, a copy of such decision. Such decision shall be final and binding upon all parties unless an appeal therefrom shall be taken and entered at the next succeeding term of the supreme judicial court, to be held in the county where the crossing is located, more than thirty days after the date of the filing of the report. The appellant shall within fourteen days from the date of the filing of such report, file in the office of the board of railroad commissioners, its reasons for appeal and fourteen days at least before the sitting of the appellate court, it shall cause to be served upon such other interested corporations or municipality a copy of such reasons for appeal, certified by the clerk of the board of railroad commissioners. The presiding justice, at such term of court, shall make such order or decree thereon as law and justice may require. Exceptions may be taken to such order or decree. The final adjudication shall be recorded as provided in section thirty-two of this chapter. Costs may be taxed and allowed to either party at the discretion of the court. (a)

SEC. 30. 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. 31. 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

(a) 78 Me., 67; 79 Me., 391; 83 Me., 277; 85 Me., 142; 87 Me., 251; 89 Me., 561; 91 Me., 137; 92 Me., 59; 97 Me., 163.

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notice and hearing the railroad commissioners adjudge that public convenience and necessity require it. When the tribunal having jurisdiction over the laying out of such way is satisfied, after hearing, that public convenience and necessity requires such laying out, such proceedings shall be suspended and petition filed by such tribunal with the railroad commissioners for their adjudication hereunder.

R. S., c. 18, § 29.
1903, c. 78.
97 Me., 162.

SEC. 32. Adjudications of the railroad commissioners relating to ways shall be recorded in the office in which the location of the way must be recorded.

Adjudications
to be recorded.
R. S., c. 18, § 30.

ASSESSMENT OF DAMAGES UPON ABUTTERS ON CITY STREETS.

SEC. 33. 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 not exceeding in case of any lot the amount of such benefit; but the whole assessment shall not exceed the damages so allowed. Before such assessment is made, notice shall be given to all 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.

Damages
caused by lay-
ing out,
widening,
altering or
discontinuing
city streets,
may be as-
sessed in
whole or in
part upon
abutters.
R. S., c. 18, § 31.
70 Me., 527.
84 Me., 217.

—notice of
hearing to be
published for
one week.

SEC. 34. 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 ten 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 ten days, and said clerk within ten 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.

Owners to be
notified of
assessment.
R. S., c. 18, § 32.
1903, c. 167, § 1.

SEC. 35. Any person not satisfied with the amount for which he is assessed, may, within ten days after service of the notice provided for by the preceding section in either manner therein provided, by request in writing given to the city clerk, have the assessment upon his lot or parcel of land determined by arbitration. The municipal officers shall nominate six persons who are residents of said city, two of whom selected by the applicant, with a third resident person selected by said two persons, shall fix the sum to be paid by him, and the report of such referees made to the clerk of said city, and recorded by him, shall be final and binding upon all parties. Said reference shall be had and their report made to said city clerk within thirty days from the time of hearing before the municipal officers as provided in section thirty-three.

Arbitration
when amount
of assessment
is not
satisfactory.
1903, c. 167, § 2.

—board of
arbitration,
how
nominated.

SEC. 36. All assessments made under the provisions of section thirty-three, shall create a lien upon each and every lot or parcel of land so

Assessments
shall create
a lien on land

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assessed, also on buildings thereon. 1903, c. 167, § 3.

—sale at public auction if assessment is not paid.

—deed shall pass title.

—redemption.

Action may be maintained by city. 1903, c. 167, § 4.

—amount which may be recovered.

assessed, and the buildings upon the same, which lien shall continue one year after said assessments are made, and within ten days after they are made, the clerk of said city shall make out a list of all such assessments, the amount of each, and the name of the person against whom the same is assessed, and he shall certify the list and deliver it to the treasurer of said city; if said assessments are not paid within three months from the date thereof, the treasurer shall sell, at public auction, such of said lots or parcels of land upon which such assessments remain unpaid, or so much thereof, as is necessary to pay such assessments and all costs and incidental charges; he shall advertise and sell the same within one year from the time said assessments are made, as real estate is advertised and sold for taxes under chapter ten, and upon such sale, shall make, execute and deliver his deed to the purchaser, which shall be good and effectual to pass the title of such real estate; the sum for which such sale shall be made, shall be the amount of the assessment and all costs and incidental expenses. Any person to whom the right by law belongs, may at any time within one year from the date of said sale redeem such real estate by paying to the purchaser or his assigns the sum for which the same was sold, with interest thereon at the rate of twenty per cent a year, and the costs of re-conveyance.

SEC. 37. If said assessments are not paid, and said city does not proceed to collect said assessments, by a sale of the lots or parcels of land upon which such assessments are made, or does not collect, or is in any manner delayed or defeated in collecting such assessments by a sale of the real estate so assessed, then the said city, in the name of said city, may maintain an action against the party so assessed for the amount of said assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such action may recover the amount of such assessment, with twelve per cent interest on the same from the date of said assessment, and costs.

WHEN WAYS ARE TO BE OPENED.

Way located by co. com'rs must be opened in six years. See §§ 7, 9, 18. —by town officers, in two years. R. S., c. 18, § 36.

Commissioners may cause highways to be opened when towns neglect. R. S., c. 18, § 37.

SEC. 38. 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. 39. 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

(a) 12 Me., 237; 43 Me., 428; 59 Me., 543; 71 Me., 240; 79 Me., 273; 91 Me., 138; 95 Me., 51.

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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. (a)

SEC. 40. 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. 41. 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.

—payment
of expenses.

Record loca-
tion of high-
way, when
lost or disre-
garded.
R. S., c. 18, § 38.

—proceedings.

—any justice
of S. J. C. to
issue sum-
mary notice,
etc.

Plantations
liable as
towns and
have same
powers.
R. S., c. 18, § 39.
See c. 4, § 122.
20 Me., 298.

ACTIONS FOR DAMAGES AND COSTS.

SEC. 42. A person entitled to receive payment of damages or costs, 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.

Damages.
R. S., c. 18, § 40.
See § 7.
45 Me., 429.
83 Me., 246.
93 Me., 231.

WAYS IN PLACES NOT INCORPORATED.

SEC. 43. 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 nine, section fifty-six. (b)

SEC. 44. 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.

SEC. 45. After hearing the parties at the time and place appointed, they may proceed as provided in section four.

SEC. 46. 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

County com-
missioners
may lay out,
alter, or dis-
continue high-
ways in un-
incorporated
townships.
R. S., c. 18, § 41.
See c. 58, § 14.

Notice of
hearing, how
given.
R. S., c. 18, § 42.
38 Me., 495.

Procedure.
R. S., c. 18, § 43.

Appeal.
R. S., c. 18, § 44.
59 Me., 514.
63 Me., 570.
64 Me., 31.

(a) 25 Me., 303; 37 Me., 120, 555; 49 Me., 145; 59 Me., 84; 64 Me., 331; 71 Me., 240; 80 Me., 429; 83 Me., 115.

(b) 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; 80 Me., 285; 83 Me., 517.

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72 Me., 248.
80 Me., 285.
91 Me., 103.

—no person appearing to prosecute; proceedings.

—appointment of committee.

—notice of time and place of hearing.

—duties of committee.

—proceedings on report.

—judgment of appellate court to be carried out.

—when appellant or prosecutor is to pay costs.

—how collected.

No new petition for one year.
R. S., c. 18, § 45.
78 Me., 537.

County commissioners may lay out, alter or discontinue highways, on same petition.
R. S., c. 18, § 46.

—proceedings.

—appeal.

Liability of persons crossing or entering upon land for purpose of hauling supplies, etc., 1893, c. 284, § 1. 1903, c. 131.

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 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. 47. 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. 48. 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-four; 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-six. 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. 49. When it is necessary for any person or persons, by themselves, men or teams, to cross or enter upon any tract of land outside of the thickly settled portion of any town, for the purpose of hauling supplies, wood, bark, logs or lumber, or to yard or land the same, such person or persons shall not be liable in an action of trespass therefor, *provided*, the

bond is furnished as provided in the following section, but the person or persons carrying on said lumbering operation, shall be liable for all the actual damage done to said land by said men and teams so crossing said land.

SEC. 50. Should the person or persons carrying on said lumbering operation, and the owners of said land, be unable to agree upon said damages, such person or persons before crossing, or entering upon said land for the purposes aforesaid, as provided by the preceding section, shall give bond to the owners of said land with sufficient sureties, and in such sum as the county commissioners in the county in which said land lies, shall determine and approve, conditioned to pay such sum as said owners of said land may recover as damages and costs as provided by section fifty-one. In case all or a part of the owners of said land are unknown, the county commissioners shall before fixing the amount of the bond, appoint a time and place for hearing thereon, and give notice thereof by publication in the county paper two successive weeks, the last publication to be seven days before said hearing, and in such case the bond shall be given to the treasurer of the county for the use and benefit of all the owners in proportion to their respective rights in the land.

Damages, how ascertained in case of disagreement. 1893, c. 284, § 2.

—bond.

—amount of bond, and hearing thereon, when part of owners of land are unknown.

SEC. 51. Should the person or persons carrying on said lumbering operation, and the owners of said land be unable to agree upon said damages, either party may, within twelve months from the time said bond is approved, apply to the county commissioners of the county in which said land lies and cause said damages to be ascertained and determined in the same manner and under the same conditions and restrictions as are prescribed by law in the laying out of railroads. Failure to apply for damages within said one year shall be held to be a waiver of the same. The person or persons liable for said damages may make a tender to any land owner damaged under the provisions of the two preceding sections, and if such land owner recovers more damages than the amount tendered him for such, he shall recover costs and the expenses of the county commissioners; otherwise the person or persons liable for said damages shall recover costs and such expenses. A tender made to any person who owns an undivided interest in land thus damaged shall be sufficient under this section.

Damages may be fixed by county commissioners. 1893, c. 284, § 3. See c. 61, § 31.

—tender may be made.

—costs, how paid.

WAYS IN INCORPORATED PLACES.

SEC. 52. 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)

Parties interested may be heard by commissioners, on petition for laying out highway. R. S., c. 18, § 48. —may appeal from decision. —stay of proceedings.

SEC. 53. If no person appears at that term to prosecute the appeal, the judgment of the commissioners may be affirmed. If the appeal is then entered, not afterwards, the court may appoint a committee of three disinterested persons, who shall be sworn, 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

On appeal, committee appointed; proceedings. R. S., c. 18, § 49.

(a) 32 Me., 454; 42 Me., 400; 51 Me., 194, 385; 63 Me., 29, 570; 64 Me., 435, 437, 586; 68 Me., 407; 78 Me., 172, 538; 81 Me., 259; 83 Me., 437; 91 Me., 51.

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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)

If judgment of commissioners is reversed, no further proceedings. R. S., c. 18, § 50.

—if judgment is affirmed, shall carry in to effect judgment of appellate court.

—costs.

—compensation of committee.

—proviso.

Committee, when to be sworn. R. S., c. 18, § 51. 83 Me., 435.

SEC. 54. 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. (b)

SEC. 55. 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.

Ways to be kept open and in repair. R. S., c. 18, § 52.

Towns neglecting to repair ways, three persons may petition commissioners. R. S., c. 18, § 53.

SEC. 56. Highways, town ways and streets, legally established, shall be opened and kept in repair so as to be safe and convenient for travelers with horses, teams and carriages. In default thereof, those liable may be indicted, convicted and a reasonable fine imposed therefor. (c)

SEC. 57. When a town liable to maintain a way, unreasonably neglects to keep it in repair, as aforesaid, after one of the municipal officers 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

(a) 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; 59 Me., 263, 514; 63 Me., 111; 64 Me., 586; 67 Me., 531; 81 Me., 259; 83 Me., 435; 86 Me., 185.

(b) 32 Me., 473; 42 Me., 401; 53 Me., 86; 59 Me., 451; 67 Me., 531; 68 Me., 485; 80 Me., 428; 83 Me., 435; 91 Me., 51.

(c) 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; 82 Me., 276; 84 Me., 23; 85 Me., 281.

Traveler and negligence. 62 Me., 470, 472; 67 Me., 168; 70 Me., 306.

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

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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 travelers, 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. 58. 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. 59. 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 a 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. 60. 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 thirty days, or by causing it to be published in some newspaper printed in the county for three weeks, previous to the time appointed; and after hearing the parties, they may make such division.

SEC. 61. A highway may be laid out on the line between towns, part of its width being in each, and the commissioners may then make such division of it and enter the same of record, and each town shall be liable in all respects, as if the way assigned to it were wholly in the town.

SEC. 62. When any ways are blocked or encumbered with snow, the road commissioner 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

—time and place for hearing, and notice.

—prescribe repairs and fix time for making.

90 Me., 483.

—if they find way safe, shall dismiss petition.

—costs.

—if way repaired since.

Petition, how and when presented. R. S., c. 18, § 54.

—return of proceedings.

Towns neglecting to make repairs. R. S., c. 18, § 55.

—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, § 56. 52 Me., 214. 74 Me., 201.

—liability of towns.

Ways laid out between towns, how divided, for repair. R. S., c. 18, § 57. 52 Me., 214.

Snow to be trodden down. R. S., c. 18, § 61. 1889, c. 272. 96 Me., 133.

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—sudden injuries to be repaired.
—damage may be recovered of town.

Mail routes, apparatus for opening.
R. S., c. 18, § 62.

—fences may be taken down to prevent drifting.

—to be re-placed.

Trees may be planted.
R. S., c. 18, § 64.
See c. 4, § 93, ¶ 6.

Materials may be taken from lands not enclosed or planted.
R. S., c. 18, § 65.
78 Me., 30.
89 Me., 262.

Duties of road commissioners.
R. S., c. 18, § 66.
1897, c. 314.

Water courses not to be so made as to do injury; remedy.
R. S., c. 18, § 67.
See c. 21, § 26.

Damages by raising or lowering streets how determined.
R. S., c. 18, § 68.
1887, c. 97.
1903, c. 48.

shall, without delay, cause them to be repaired. And all damage accruing to a person in his business or property, through neglect of such road commissioner or the municipal officers of such town, to so render passable, ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a special action on the case.

SEC. 63. There shall be furnished and kept in repair in each section of the town, 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 any road commissioner 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.

SEC. 64. A sum not exceeding five per cent of the amount raised for repair of ways and bridges may be expended by a road commissioner under the direction of the municipal officers, in planting trees about public burying-grounds, squares and ways, if the town by vote authorizes it.

SEC. 65. A road commissioner 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 enclosed 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 road commissioner, in an action as on an implied promise. (a)

SEC. 66. Road commissioners shall go over the roads in their towns 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 whenever so directed by the selectmen, remove all shrubbery and bushes growing within the limits of highways, not planted or cultivated therein for the purpose of profit or ornamentation, having care for the proper preservation of shade trees, 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.

SEC. 67. No road commissioner 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. (b)

SEC. 68. When a way or street is raised or lowered by a road commissioner or person authorized, to the injury of an owner of adjoining land, 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, may have them determined, on complaint to the supreme judicial court, in the manner prescribed in section twenty of this chapter. Said complaint shall be filed at the term of the supreme judicial court, next to be held within the county where the land is situated, after sixty days from the date of assessment. (c)

(a) 11 Me., 274; 13 Me., 254; 16 Me., 190; 25 Me., 128; 32 Me., 328; 38 Me., 221; 43 Me., 332; 51 Me., 359; 66 Me., 235; 68 Me., 361, 499.

(b) 32 Me., 327; 63 Me., 480; 86 Me., 380; 89 Me., 427.

(c) 43 Me., 332; 65 Me., 592; 79 Me., 368; 82 Me., 535; 86 Me., 369.

SEC. 69. When the amount appropriated is not sufficient to repair the ways a road commissioner 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 amount so appropriated and in addition thereto. (a)

SEC. 70. Towns shall annually raise money to be expended on town ways and highways, and for the repair of bridges, and the same shall be assessed and collected, as other town taxes, and expended for said purposes, by a road commissioner or commissioners, or by the selectmen as each town may determine.

SEC. 71. Sixty-five per cent of the highway taxes assessed shall be expended upon the highways prior to the fifteenth day of July, and the balance at such time as the commissioner, or in case no commissioner is elected, as the selectmen deem for the best good of the public.

SEC. 72. The road commissioner under the direction of the selectmen, shall have charge of the repairs of all highways and bridges within the towns and shall have authority to employ the necessary men and teams, and purchase timber, plank and other material for the repair of highways and bridges. He shall give bond to the satisfaction of the selectmen, and be responsible to them for the expenditure of money, and discharge of his duties generally. His compensation shall be such sum as the towns shall annually vote therefor, which sum shall, in no case be less than one dollar and fifty cents a day, for every day of actual service; and he shall render to the selectmen monthly statements of his expenditures, and receive no money from the treasury except on the order of the selectmen.

SEC. 73. He shall keep accurate accounts, showing in detail, all moneys paid out by him, to whom and for what purpose; he shall settle his accounts on or before the twentieth day of February, annually, and the same shall be reported in the annual town report in detail. In case no commissioner is elected by a town at its annual meeting, the selectmen of said town shall keep accurate accounts showing in detail all moneys paid out by them for the repair of bridges and ways, to whom and for what purpose, and the same shall be reported in the annual town report in detail.

SEC. 74. A town at its annual meeting may authorize its assessors to abate not exceeding three dollars of the 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 the tax of any inhabitant, who shall construct, and during the year keep in repair a watering trough beside the highway, well supplied with water, the surface of which shall be two and a half feet or more above the level of the ground, and easily accessible for horses and carriages, if the assessors think such watering trough for the public convenience. If more than one person in the same locality 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.

(a) 3 Me., 446; 13 Me., 294; 30 Me., 159; 34 Me., 406; 51 Me., 352; 55 Me., 437; 84 Me., 22.

CHAP. 23.

When appropriation insufficient, procedure.
R. S., c. 18, § 69.

Towns may raise and assess moneys for bridges and ways.
R. S., c. 18, § 70.
1899, c. 32, § 2.
72 Me., 517.

When and how money shall be expended.
1899, c. 32, § 4.

Powers and duties of road commissioner.
1899, c. 32, § 3.
See c. 4, §§ 13, 15.

—shall give bond.
95 Me., 452.

—compensation.

—make monthly statement.

Commissioner shall keep account of expenditures.
1899, c. 32, § 6.

—accounts shall be kept by selectmen, if commissioner is not chosen.
See c. 4, § 15.

Wide wheels and watering troughs, abatement for.
R. S., c. 18, § 71.
57 Me., 529.
67 Me., 138.

—public drinking troughs and fountains.
See c. 4, § 93, ¶ 6.

CHAP. 23.

Ways may be opened or repaired by contract.
R. S., c. 18, § 72.
Persons injured by defect in highways may recover damages.
R. S., c. 18, § 80.
1903, c. 105.

—limitation.

—when sufferer must give previous notice.

—county commissioners or town officers must be notified in writing within 14 days.
1895, c. 164.

—loss of life, damages for, how recovered.

—view may be ordered at trial.

SEC. 75. Towns may authorize their road commissioners or other persons to make contracts for opening or repairing their ways.

SEC. 76. Whoever receives any bodily injury, or suffers damage in his property, through any defect or want of repair or sufficient railing, in any highway, townway, 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 or road commissioners of such town, or any person authorized by any commissioner of such county or any municipal officer, or road commissioner of such town, to act as a substitute for either of them, 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, or some person in his behalf, 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 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)

(a) When and how ways should be constructed. 18 Me., 288; 26 Me., 240; 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; 76 Me., 427; 82 Me., 437; 87 Me., 265; 90 Me., 487; 91 Me., 566; 94 Me., 165; 95 Me., 374.

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; 82 Me., 438.

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; 97 Me., 519.

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; 77 Me., 44; 78 Me., 200; 81 Me., 188; 82 Me., 438; 84 Me., 334; 97 Me., 519.

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, 533; 75 Me., 559; 77 Me., 384; 80 Me., 598; 82 Me., 65, 75, 437; 84 Me., 147; 87 Me., 188, 231, 528; 88 Me., 297, 467; 90 Me., 131, 213, 487; 93 Me., 361; 94 Me., 268; 96 Me., 320.

Notice of claim. 64 Me., 134; 66 Me., 333, 454, 549; 68 Me., 513; 69 Me., 196; 70 Me., 124; 73 Me., 486; 75 Me., 81, 115; 83 Me., 428; 84 Me., 278, 577; 87 Me., 231; 88 Me., 474; 94 Me., 234.

CHAP. 23.

SEC. 77. When on trial of any such action or indictment, it appears that the defendant county or town has, within six years before the injury, made repairs on the way or bridge, it shall not deny the location of such way or bridge. (a)

Repair within six years, proof of way. R. S., c. 18, § 81.

SEC. 78. 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.

No liability if load exceeds six tons. R.S., c. 18, § 82.

SEC. 79. 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.

Slippery sidewalk no cause of action for pedestrian. R. S., c. 18, § 83.

SEC. 80. 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 defense of the same.

Railroad company may be notified of suit against town for defective crossing. R. S., c. 18, § 84.

SEC. 81. 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.

Liability of railroad company. R.S., c. 18, § 85. 66 Me., 486.

SEC. 82. The notice required in section eighty, shall be by copy of the writ served upon the company at least thirty days before the sitting of the court in which it is returnable, or by such notice as the court may order after entry.

Notice to company. R. S., c. 18, § 86.

SEC. 83. 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.

One indictment only at a term. R. S., c. 18, § 87. See c. 1, § 6, ¶ 6; c. 24, § 1. 18 Me., 69. 59 Me., 452.

SEC. 84. 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.

Agents appointed to expend fines; their duties. R. S., c. 18, § 89. 65 Me., 212.

SEC. 85. 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.

Clerk of court to certify fines to assessors; how collected and paid. R. S., c. 18, § 90. 65 Me., 211. See c. 9, § 88.

SEC. 86. 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

If way is not repaired in four months, fine to be collected. R. S., c. 18, § 91.

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; 76 Me., 532; 83 Me., 416.

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

CHAP. 23.

When gates, bars, and fences on ways may be removed.
R. S., c. 18, § 92.
12 Me., 38.
59 Me., 144.

Road com'rs may remove logs and lumber as a nuisance; proceedings.
R. S., c. 18, § 93.
—materials may be sold.
12 Me., 38.
25 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, § 94.

When buildings and fences on a street or way for twenty years become bounds.
R. S., c. 18, § 95.
See c. 22, § 11.

—when it takes forty years.

—estoppel created by writing under seal.
1895, c. 33.

Towns required to maintain guide-posts at crossings of ways.
R. S., c. 18, § 96.
72 Me., 287.

—penalty.
See c. 128, § 19.

Town officers to erect guide-posts.
—plantations obligated as towns.

a warrant to collect of the town the fine and costs, or the unpaid part thereof.

SEC. 87. Any person may take down and remove gates, bars or fences, upon or across any highway or townway, 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. 88. When logs, lumber or other obstructions, without necessity are left on such ways, any road commissioner, or when no road commissioner is chosen, one of the municipal officers, 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. 89. 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. 90. 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. Persons owning lands beside a highway or townway, on which are buildings or fences that encroach within the limits of said way, may by a writing under seal, by them signed and acknowledged, and recorded in the registry of deeds for the county in which the land lies, admit to the municipal officers of the town in which said way exists, the true bounds or limits of said way, and the extent of their wrongful occupancy thereof. And thereafter such persons, and all claiming title under or through them, shall be estopped from asserting any right to the continuance of such buildings or fences within said limits, for the full term of forty years from the date of such deed. (a)

SEC. 91. 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. 92. 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

(a) 59 Me., 144; 73 Me., 359; 79 Me., 273; 82 Me., 395; 83 Me., 511; 85 Me., 422; 90 Me., 136, 234; 94 Me., 527.

or county taxes, and their officers, are under the same obligations and subject to the same penalties in these respects as towns.

SEC. 93. 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. 94. 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. 95. 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 materials to be furnished or amount of money to be paid by each owner therefor and the manner of calling future meetings.

SEC. 96. The surveyor so chosen, with respect to such way or bridge, has the powers of a road commissioner. For refusing to accept the trust or to take the oath he forfeits four dollars, to be recovered as provided in section ninety-eight. If any owner or occupant, on requirement of the surveyor, neglects to furnish his proportion of labor, materials or money, the same may be furnished by the other owners and occupants, and recovered of him in an action on the case.

SEC. 97. 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 town taxes are collected; and be liable for neglect of duty, as town collectors are for similar neglects.

SEC. 98. 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.

CHAP. 23.

R. S. c. 18, § 97.
72 Me., 237.

Excavations near ways, how to be made; responsibilities.
R. S., c. 18, § 98.
54 Me., 47.
57 Me., 377.

Ice bridges may be made.
R. S., c. 18, § 99.
18 Me., 435.

—penalty for injuring.

Owners of private ways and bridges may call meetings; proceedings.
R. S., c. 18, § 100.

Surveyor's duties; penalty for neglect of owners to pay.
R. S., c. 18, § 101.

Owners may contract for repair, and cause money to be assessed and collected.
R. S., c. 18, § 102.

See c. 10, § 8.

Penalties and process.
R. S., c. 18, § 103.

CHAP. 23.

STATE ROADS.

Towns may establish state roads.
1901, c. 285, § 1.

SEC. 99. Upon the request of the municipal officers of any town, the county commissioners of the county wherein said town is located, shall designate that highway running through said town which in their judgment is the main thoroughfare, and said highway shall be known as a state road.

Towns establishing state roads may receive state aid in improving the same.
1901, c. 285, § 2.
1903, c. 63, § 1.

SEC. 100. Towns establishing state roads as aforesaid may, on complying with the conditions hereinafter set forth, receive from the state one-half of the amount actually expended in permanent improvement of said roads, not exceeding two hundred dollars a year; *provided* that no town shall receive such state aid unless its appropriation and expenditure for such road shall amount to at least one hundred dollars and shall have been exclusive of and in addition to the amount regularly raised in such town for highways and bridges; and *provided also*, that the amount so expended shall be used before the first day of September in permanent improvement of a continuous portion of said road, and in a manner satisfactory to the county commissioners of the county wherein said road is located. Such aid shall be paid from the state treasury on and after the first day of January, upon certificate by the governor and council as provided by the following section.

—when money shall be expended.

—when aid shall be paid.

Municipal officers shall make return to county commissioners.
1901, c. 285, § 3.

SEC. 101. Municipal officers of towns improving state roads under the foregoing provisions shall annually before the first day of October make return, under oath, to the county commissioners of their county of the amount appropriated and expended by their town in such permanent improvements, the amount of road improved, and the character of the work done. The county commissioners shall inspect the road so improved and if they are satisfied that the provisions of the preceding section have been complied with, they shall certify to the governor and council the sum which said town is entitled to receive from the state. Any town dissatisfied with their decision may appeal to the governor and council. The governor and council shall issue a certificate to the treasurer of the town for such amount as they adjudge such town entitled to receive from the state treasury.

—commissioners shall inspect the road improved and report to governor and council.

Towns taking advantage of §§ 99-105 must make application to secretary of state.
1901, c. 285, § 1.

SEC. 102. Towns desiring to take advantage of the provisions of sections ninety-nine to one hundred and five inclusive, may, through their municipal officers make application therefor to the secretary of state, and he shall record such applications in the order in which they are received. If the appropriation provided by the state for that purpose is insufficient in any year to furnish aid to all the towns applying therefor they shall receive such aid in the order in which their applications were presented, providing the other conditions of said sections have been complied with, and those towns whose claims cannot be paid in any year by reason of such lack of funds shall have the preference of all others in the succeeding year, and shall be the first to receive aid out of the appropriation for that year.

Towns receiving special aid not entitled to benefits of §§ 99-105.
1901, c. 285, § 5.

SEC. 103. No town which receives by special act or appropriation assistance from the state in the construction or repair of its highways or bridges shall be entitled to the benefits of sections ninety-nine to one hundred and five inclusive during the year in which such assistance is given.

Appropriation.
1903, c. 63, § 2.

SEC. 104. For the purpose of carrying out the provisions of the five preceding sections the sum of forty thousand dollars shall be appropriated annually.

SEC. 105. The word "town" in the six preceding sections shall be construed as meaning cities, towns or organized plantations. Nothing therein contained shall be construed as changing the existing control of highways by counties or towns or as limiting or changing their liabilities therefor.

Note. Ditches and drains may be constructed by municipal officers when necessary for care of highways, c. 21, § 26.

Municipal officers to grant permits for opening streets, c. 55, § 6, for erection of poles and wires therein, c. 55, § 17; as to damages occasioned thereby, c. 55, §§ 7 and 10.

Owners of unincorporated tracts of lands may raise money for roads, c. 58, § 14.

Protection of ways from overflow, c. 94, §§ 37-42.

Penalty for advertising upon rocks or other natural objects in highway, c. 128, § 13.

Penalty for injuring guide-boards, c. 128, § 19.

The word "town" construed. See c. 1, § 6, ¶ xix. —existing control of highways not changed. 1901, c. 285, §§ 7, 8.

CHAPTER 24.

LAW OF THE ROAD.

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.

SEC. 2. When persons traveling with a team are approaching to meet on a way, they shall seasonably turn to the right of the middle of the traveled part of it, so far that they can pass each other without interference. When it is unsafe, or difficult on account of weight of load to do so, a person about to be met or overtaken, if requested, shall stop a reasonable time, at a convenient place, to enable the other to pass. (a)

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

SEC. 4. No person shall leave his team stationary on a way so as to obstruct the free passage of other teams; or allow his team to be on a way without a driver.

SEC. 5. Three or more bells must be fastened to one of the foremost horses drawing teams on snow without wheels.

SEC. 6. Any person injured by violation of either of the previous sections, may recover damages in an action on the case, commenced within one year. Such violator forfeits not less than one, nor more than twenty dollars, to be recovered on complaint made within sixty days.

SEC. 7. No automobile or motor vehicle shall be driven or operated upon any highway, town way, public street, avenue, driveway, park or parkway, at a greater rate of speed than fifteen miles an hour, or upon any highway, townway, public street, avenue, driveway, park or parkway, within the compact or built up portions of any city, town or village, the limits of which shall be fixed by the municipal officers thereof, at a greater rate of speed than eight miles an hour, except where such city or town may by ordinance or by-law permit a greater rate of speed.

SEC. 8. No person driving or in charge of an automobile or motor vehicle on any highway, townway, public street, avenue, driveway, park or parkway, shall drive the same at any speed greater than is reasonable and proper; having regard to the traffic and use of the way by others, or so as to endanger the life or limb of any person; and racing any such vehicle on any such ways or parks is hereby forbidden.

(a) 11 Me., 339; 25 Me., 46; 66 Me., 376; 71 Me., 347.

Definitions. R. S., c. 19, § 1. See c. 1, § 6, ¶ 6; c. 23, § 83.

Travelers to turn to right; if unable to turn, must stop. R. S., c. 19, § 2.

If stationary, or moving slowly, must allow others to pass. R. S., c. 19, § 3. 25 Me., 46. 71 Me., 347. Teams must not obstruct passage, etc. R. S., c. 19, § 4.

Bells. R. S., c. 19, § 5.

Damage to party injured; penalty. R. S., c. 19, § 6.

Rate of speed of automobiles regulated. 1903, c. 237, § 1.

Rate of speed of automobiles shall be reasonable and proper. 1903, c. 237, § 2.