

MAINE STATE LEGISLATURE

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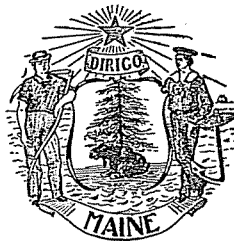
FIFTH REVISION.

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 51.

THE ORGANIZATION AND CONSTRUCTION OF STEAM RAILROADS. CROSSINGS
AND BRIDGES.

Railroad
companies,
how formed.
R. S., c. 51, § 1.
—articles of
association.

—capital
stock.

—gauge.

—shares.

—directors.

—subscription.

Articles,
when to be
filed.
R. S., c. 51, § 2.

Approval of
articles by
railroad
commis-
sioners.
R. S., c. 51, § 3.
1899, c. 117, § 1.

—when re-
corded, sec-
retary of
state shall
issue a
certificate.

SEC. 1. Any number of persons not less than ten, a majority of whom shall be citizens of the state, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property within the state, and for that purpose may make and sign articles of association in which shall be stated the name of the company, the gauge of the road, the places from which and to which the road is to be constructed, maintained and operated, the length of such road, as nearly as may be, and the name of each town and county in the state through which or into which it is to be made; the amount of the capital stock, which shall not be less than six thousand dollars for every mile of road proposed to be constructed of the gauge of four feet eight and a half inches, nor less than three thousand dollars a mile for a narrower gauge, the number of shares of which said stock shall consist, and the names and places of residence of at least five persons, a majority of whom shall be citizens of the state, who shall act as directors of the proposed company, and manage its affairs until others are chosen in their places. Each subscriber shall sign his name, residence and the number of shares which he agrees to take in said company.

SEC. 2. Said articles of association shall not be filed and recorded in the manner provided in the following section until the capital stock named in section one has been subscribed thereto, in good faith, by responsible parties, and five per cent paid thereon in cash to the directors named in said articles, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named therein, that the amount of stock required by this section has been in good faith subscribed, and five per cent paid thereon in cash as aforesaid, and that it is intended in good faith to construct, maintain and operate the road mentioned in such articles, which affidavit shall be recorded therewith as aforesaid.

SEC. 3. Said directors shall present to the board of railroad commissioners a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The board of railroad commissioners shall, on presentation of such petition appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said board deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. If the board of railroad commissioners, after notice and hearing the parties, finds that all the provisions of sections one and two have been complied with, and that public convenience requires the construction of such railroad, said board shall indorse upon said articles a certificate of such facts and the approval of the board in writing. The secretary of state shall, upon payment of the fees prescribed by section five of chapter forty-seven cause the same with the indorsement thereon, to be recorded, and shall issue a certificate in the following form:

"STATE OF MAINE.

Be it known that, whereas," (here the names of the subscribers to the articles of association should be inserted) "have associated themselves together with the intention of forming a corporation under the name of" (here insert the name of the corporation) "for the purpose of building and operating a road between" (here insert the description of the road contained in the articles of association) "and have complied with the statutes of the state in such cases made and provided: Now, therefore, I," (here insert the name of the secretary) "Secretary of the State of Maine, hereby certify that said" (names of subscribers), "their associates and successors, are legally organized and established as an existing corporation under the name of" (name of corporation) "with the powers, rights and privileges, and subject to the limitations, duties and restrictions, which by law appertain thereto. Witness my official signature hereunto subscribed, and the seal of the State of Maine hereunto affixed, this —— day of ——, A. D. 19——." (day, month and year inserted.)

Form of certificate.

The secretary of state shall sign the same and cause the seal of the state to be thereto affixed, and such certificate shall be conclusive evidence of the organization and establishment of such corporation at the date thereof. The secretary shall also cause a record of such certificate to be made, and a certified copy of such record may with like effect as the original certificate be given in evidence to prove the existence of such a corporation.

—to be evidence of the establishment of corporation.

—to be recorded.

SEC. 4. The first meeting for the purpose of organizing such corporation, shall be called by a notice, signed by five or more of the subscribers to such articles of association, stating the time, place and purpose of such meeting, a copy of which notice shall, seven days at least before the day appointed therefor, be given to each such subscriber, or left at his usual place of business or residence, or deposited in the post office, postpaid, addressed to him at his usual place of business or residence; and whoever gives such notice, shall make affidavit of his doings, which shall be recorded in the records of the company.

First meeting, how called.
R. S., c. 51, § 4.

SEC. 5. If the capital stock of any company formed under the foregoing provisions is found to be insufficient for constructing and equipping its road, such company may increase the same from time to time, to any amount, for the purposes aforesaid. Such increase must be sanctioned by a vote, in person or by proxy, of two-thirds in amount of all the stockholders at a meeting thereof, called by the directors for that purpose.

Capital stock, how increased.
R. S., c. 51, § 5.
See §§ 19-21.

SEC. 6. Every corporation organized under the foregoing provisions, before commencing the construction of its road, shall present to the board of railroad commissioners a petition for approval of location, defining its courses, distances and boundaries accompanied with the map first presented, and with a profile of the line on the relative scales of profile paper in common use, and with a report and estimate prepared by a skilful engineer from actual survey. The board of railroad commissioners shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said board deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. If the board of railroad commissioners, after hearing the petition, approves the proposed location, the corporation may proceed with the construction thereof; *provided*, that they first file with the clerk of the court of county commissioners of each county through which the road passes, a plan of the location of the road, defining its courses, distances and boundaries, and another copy of the same with the

Petition for approval of location.
R. S., c. 51, § 6.
1899, c. 117, § 2.
90 Me., 85.

—hearing on notice to be given.

—when corporation may proceed with construction of road.

—proviso.

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—location not to vary, except to avoid expense.

—to be filed within two years.
—extension of time.
1893, c. 164.
—not to cross navigable rivers without consent of legislature.

Building of road to be begun within three years.
R. S., c. 51, § 7.
See § 10; c. 1.
§ 6, ¶ xxix.

Map and profile of road to be filed in secretary of state's office.
R. S., c. 51, § 8.

—maps, how to be drawn.

Railroad company may change gauge.
R. S., c. 51, § 10.
1887, c. 96, § 1.

Railroad commissioners may revive lapsed charter.
1887, c. 96, § 3.
See § 7.

Petition for legislative incorporation, contents.
R. S., c. 51, § 11.

Company may fix number of directors.
R. S., c. 51, § 12.

Any stockholder at any meeting may call for stock vote.
R. S., c. 51, § 13.

board of railroad commissioners; but the location so filed shall not vary, except to avoid expense of construction, from the route first presented to said board, unless said variation is approved by them. And said location, together with any variation made therein, shall be filed within two years from the time when the articles of association are filed in the office of the secretary of state; *provided, however*, that the railroad commissioners, upon written application made to them, may extend the time of filing such variations in their discretion; *provided, further*, that no railroad shall be made across tide waters where vessels can navigate, without special permission of the legislature first obtained.

SEC. 7. If any corporation formed under the foregoing sections does not, within three years after its articles of association are filed and recorded in the office of the secretary of state, begin the construction of its road, and expend thereon ten per cent of its capital, its corporate existence and power shall cease.

SEC. 8. Every corporation organized as aforesaid shall, within one year after any part of its road has been constructed and opened for operation, cause to be made a map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the secretary of state; also like maps of the parts thereof located in different counties, and shall file the same in the offices for recording deeds in the counties in which such parts of road are. Every such map shall be drawn on a scale and on paper to be designated by the board of railroad commissioners, and certified and signed by the president and engineer of the corporation.

SEC. 9. Any railroad corporation formed under the foregoing sections, desiring to change the gauge of its road, shall by vote, increase its capital stock to the amount required by section one of this chapter, if the existing capital be not equal to such amount, and shall present to the board of railroad commissioners a written application, subscribed and sworn to by a majority of its directors, setting forth the desire of the petitioners, and that the increased amount of capital stock has been in good faith subscribed by responsible persons, and that five per cent thereof has been paid in, in cash, to the treasurer of such corporation. If such application be approved by the board of railroad commissioners, such corporation shall make and file a new location, as provided by section eight of this chapter.

SEC. 10. The board of railroad commissioners may revive the corporate existence and power of any railroad corporation, organized under the foregoing sections, which may have ceased by failure of the corporation to file its location, or to begin the construction of its road within the time limited by law, on application made by the directors of said corporation to the board of railroad commissioners, in the manner provided in section nine.

SEC. 11. When a petition for a railroad corporation is presented to the legislature, it must state the places where the road is to begin and end, the distance between them, its general course, and the names of the towns through which it may pass.

SEC. 12. Any railroad company may at its annual meeting fix the number of its directors, *provided*, that in the call for said meeting notice is given of an intention to act upon said subject.

SEC. 13. Any stockholder, or representative of any stockholder in any railroad company may call for a stock vote thereof at any meeting of its stockholders, on any question legally before it, anything in the charter or by-laws of such company to the contrary notwithstanding.

SEC. 14. Any railroad corporation of this state may be allowed to extend its road to other points or places, on application to the board of railroad commissioners, as provided in section nine, and by conforming to the general railroad laws of the state, so far as the same may be applicable.

Railroad corporations may extend roads.
1899, c. 7.

SEC. 15. Any railroad corporation of this state may operate its road by electricity.

Use of electricity.
1895, c. 62.

SEC. 16. Any railroad corporation, wholly organized under the laws of this state, at any time when it has paid dividends for the preceding three years, may, by vote of its directors, authorized or confirmed by a two-thirds vote of its stockholders, at a meeting notified for the purpose, aid in the construction or equipment of a branch of its railroad, or in the construction or equipment of a connecting railroad, and may own and hold the securities or stock of such branch or of such connecting railroad; and the parties may make such leases or mortgages as they deem necessary to secure their respective interests.

Railroad corporations may aid branch or connecting road.
1885, c. 301.

SEC. 17. A railroad corporation, which has a lease of, or which operates the railroad of another railroad corporation may purchase and hold shares of the capital stock of such corporation.

May hold shares in another road.
1897, c. 186, § 1.

SEC. 18. A railroad corporation, which owns a majority of the capital stock of another railroad corporation, may purchase and hold additional shares of the capital stock of such corporation.

May increase holdings.
1897, c. 186, § 2.

SEC. 19. A railroad corporation for the purpose of building a branch railroad track which it is or may be authorized to build, or of aiding in the construction of another railroad pursuant to law, or of building stations, or of abolishing grade crossings, or of making permanent improvements, or of paying its floating debt, or of paying its funded debt, or for the payment of money borrowed for any lawful purpose, or for the purchase of shares of the capital stock of any railroad corporation whose railroad is leased to or operated by it, or for the purchase of shares of the capital stock of any railroad corporation of which capital stock it owns a majority, or for improving the alignment of its road, or for acquiring land for and laying new tracks, or for other necessary and lawful purposes, not named in section five, from time to time, with the approval of the railroad commissioners as hereinafter provided, may increase its capital stock beyond the amount fixed by law, *provided* such increase shall first be authorized by vote of a majority of stock present or represented, at a legal meeting of the corporation duly called for that purpose.

A railroad corporation may increase its capital stock beyond amount first authorized.
1897, c. 186, § 4.
See § 5.

SEC. 20. Upon petition of the directors of the railroad corporation to the board of railroad commissioners, the amount of such increase after such notice by publication as the commissioners shall order, and after hearing, shall be determined by said commissioners, who shall within thirty days after final hearing of said petition, file in the office of the secretary of state a certificate showing the amount of increase authorized and the purposes for which the proceeds of said new stock may be used; and the company shall not apply such increase or the proceeds thereof to any purpose not specified in said certificate, and may be enjoined from so doing by any justice of the supreme judicial court upon application of the board or of any interested party.

Railroad commissioners to grant certificate, to be filed in office of secretary of state.
1897, c. 186, § 5.

—proceeds used for specific purpose only.

SEC. 21. Whenever a railroad corporation increases its capital stock under the provisions of the preceding section, the new shares to the number necessary to produce the amount necessary for the purposes for which such increase is authorized shall be offered proportionately to its stock-

When stock is increased it shall be offered to stockholders proportionately.
1901, c. 173.

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—notice of increase shall be given each stockholder.

—time in which stock may be taken.

—when stock may be disposed of without offering same to stockholders.

—shares unsubscribed for shall be sold at auction.

—where such stock may be sold.

—public notice of time and place of sale shall be given.

Penalty for issuing stock contrary to the provisions of §§ 19-21, 1897, c. 186, § 7.

Powers of railroad corporations under existing law not affected, 1897, c. 186, § 8.

Land may be bought or taken for what purposes, R. S., c. 51, § 14, 1902, c. 23. See §§ 26, 28, 29, 31.

holders at not less than the market value thereof at the time of increase, as shall be determined by the board of railroad commissioners, taking into account previous sales of stock of the corporation and other pertinent conditions. The directors shall cause written notice of such increase to be given to each stockholder who was such at the date of the vote to increase, stating the amount of such increase and the proportion thereof in shares or portions of shares which he would be entitled to receive on a division of the same, and the price fixed by the railroad commissioners as hereinbefore provided at which he is entitled to take the same, and fixing a time, not less than fifteen days from the date of such notice, within which he may subscribe for such additional stock; and each stockholder may, within the time fixed, subscribe for his portion of such stock, and the same shall be paid for in cash on the issue of a certificate therefor. *Provided*, that when the increase in the capital stock does not exceed four per cent of the existing capital stock of the corporation, the directors may dispose of the same in the manner hereinafter provided in this section without first offering the same to the stockholders. If, after the expiration of the notice above provided for, any shares of such stock remain unsubscribed for by the stockholders entitled to take them, the directors shall sell the same at auction. All shares of stock to be disposed of at auction under the provisions of this section shall be offered for sale to the highest bidder in the city of Boston, or in such city or town as may be prescribed by the railroad commissioners; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding the time fixed for the sale, in such daily newspapers, not less than three in number, as may be prescribed by the commissioners. No shares shall be sold or issued for a less sum, to be actually paid in cash, than the par value thereof.

SEC. 22. Any member of the board of directors, or any treasurer or other officer or agent of any railroad company, who knowingly votes to authorize the issue of, or knowingly signs, certifies or issues, stock authorized by the provisions of the three preceding sections, contrary to such provisions or who knowingly votes to authorize the application of, or knowingly applies the proceeds of such stock contrary to the provisions of said sections, or who knowingly votes to assume or incur, or who knowingly assumes or incurs, in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation, shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

SEC. 23. Nothing contained in the six preceding sections shall be construed as a repeal of any of the powers conferred upon any railroad corporation under any other provision of law.

REAL ESTATE, HOW AND FOR WHAT PURPOSES TAKEN.

SEC. 24. A railroad corporation for the location, construction, repair and convenient use of its road may purchase, or take and hold, as for public uses, land and all materials in and upon it; through woodland and forest the land so taken shall not exceed six rods in width unless necessary for excavation, embankment or materials, and through all land other than woodland and forest, the land so taken shall not exceed four rods in width unless necessary for excavation, embankment or materials. (a)

(a) 35 Me., 258; 40 Me., 556; 41 Me., 220; 47 Me., 46, 347; 51 Me., 320; 59 Me., 535; 66 Me., 38, 46; 67 Me., 360; 77 Me., 602; 83 Me., 277; 84 Me., 39; 86 Me., 130.

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SEC. 25. The railroad shall be located within the time and substantially according to the description in its charter; and the location shall be filed with the county commissioners, who shall indorse the time of filing thereon and order said location recorded. When a corporation, by its first location, fails to acquire the land actually embraced in its roadway, or the location as recorded is defective or uncertain, it may, at any time, correct and perfect its location, and file a new description thereof; and in such case it is liable in damages, by reason of such new or amended location, only for land embraced therein for which the owner had not previously been paid. Any subscriber to the stock, alleging that it has not been located according to its charter, may, before payment of his subscription, make written application to the county commissioners in the county where the deviation is alleged, stating it, who after fourteen days' notice to the corporation, and upon a view and hearing, shall determine whether it has been located as required; if they determine that it has been, no such defense shall be made to any process to enforce payment; if they determine that it has not, the subscription of such applicant is void. The prevailing party recovers costs. Provisions in railroad charters, whenever granted, limiting the time within which such railroad shall be completed, shall not affect the portion thereof completed within such time; and all charters under which railroads have been constructed for a portion of the line authorized thereby are confirmed and made valid as to such portion.

SEC. 26. Any railroad corporation may also purchase or take and hold, as for public uses, additional land at any time required for the purpose of improving the alignment of its road, or for double tracking its road, also land for borrow and gravel pits, necessary tracks, side-tracks, stations, coal-sheds, wood-sheds, repair-shops, and car, engine and freight houses; but if the owner of said land does not consent thereto, or if the parties do not agree as to the necessity therefor or the area necessary to be taken, the corporation may make written application to the railroad commissioners, describing the estate, and naming the persons interested; the commissioners shall thereupon appoint a time for the hearing near the premises, and require notice to be given to the persons interested, as they may direct, fourteen days at least before said time; and shall then view the premises, hear the parties and determine how much, if any, of such real estate is necessary for the reasonable accommodation of the traffic and appropriate business of the corporation. If they find that any of it is so necessary, they shall furnish the corporation with a certificate containing a definite description thereof; and when such certificate is filed with the clerk of courts in the county where the land lies, the land shall be deemed and treated as taken; *provided, however*, that when land is held by a tenant for life, and the reversion is contingent as to the persons in whom it may vest on the termination of the life estate, such fact shall be stated in the application, and the commissioners shall, in addition to the notice to the tenant for life, give notice by publication to all others interested, in such manner as they deem proper.

SEC. 27. Any railroad corporation, under the direction of the railroad commissioners, may make any changes in the location of its road which it deems necessary or expedient, and such changes shall be recorded where the original location was required by law to be recorded.

SEC. 28. Any railroad corporation may purchase, or take and hold, as for public uses, land and materials necessary for making any changes authorized by the preceding section, in the manner authorized by its

Location,
to be filed
and recorded.
R. S., c. 51, § 15.
1903, c. 93.

—remedy for
defective
location.
59 Me., 536.
83 Me., 277.
97 Me., 47.

—subscrip-
tions, when
released by
new location.

—proceed-
ings before
county com-
missioners.

—portion
completed
not affected
by limitation
in charter.

Company
may take
additional
land for
improving
its roadbed,
stations,
repair-shops,
etc.
R. S., c. 51, § 16.
1897, c. 186, § 3.
1903, c. 164.
See § 28.

—railroad
commission-
ers to decide
disputes as to
necessity
therefor.
66 Me., 38-46.
84 Me., 39.
85 Me., 67.

—and to give
certificate, to
be recorded.

—proviso.

Change in
location of
railroad.
1893, c. 193, § 1.
90 Me., 92.

May take land
necessary for
making any
change.
1893, c. 193, § 2.

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Limitation of
right to enter
on or take
land.
R. S., c. 51, § 17.
See c. 53, § 18.

Railroad
companies
may build
branch tracks
to mills,
mines, quar-
ries, gravel-
pits and
factories.
R. S., c. 51, § 18.
1891, c. 129.
83 Me., 277.
See c. 53, § 18.

Damages to
be estimated
by county
commis-
sioners.
R. S., c. 51, § 19.
See c. 53, § 18;
c. 83, § 108.

—guardian
may release
damages.
See c. 73, § 1,
¶ vii.

—persons
having any
interest
deemed
owners.

—damages
and costs,
how secured.

Notice on
petitions for
assessment
of damages.
R. S., c. 51, § 20.
See c. 53, § 18.
94 Me., 390.

Cattle-guards
and passes to
be made and
maintained
by road.
R. S., c. 51, § 21.
See c. 53, § 18.

charter or the general provisions of law, and may cross highways and town ways in accordance with the provisions of law regulating such crossings.

SEC. 29. The land taken shall not be entered upon, except to make surveys, before the location has been filed, and the damages estimated and secured as hereinafter provided; and no railroad corporation shall take, without consent of the owners, meeting-houses, dwelling-houses or public or private burying-grounds. (a)

SEC. 30. Any railroad corporation, under the direction of the railroad commissioners, may locate, construct and maintain branch railroad tracks to any mills, mines, quarries, gravel-pits or manufacturing establishments erected in any town or township, through which the main line of said railroad is constructed, but not within any city without the consent of the city council, and for that purpose said corporation shall have all the powers and rights granted, and be subject to all the duties imposed upon it by its charter.

ESTIMATION AND PAYMENT OF DAMAGES.

SEC. 31. For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on written application of either party, made within three years after filing the location, or if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter; and when no estimate is made within such time, the owner may maintain an action of trespass, or have any remedy herein provided. The guardian of a person incapable of giving a valid conveyance, whose land is taken, may settle and give a valid release for damages; and persons having any interest in such land have the rights and remedies of owners to the extent of their interest. When requested by the owner, said commissioners shall require the corporation to give security for the payment of damages and costs, by depositing, at its risk, with the clerk, specie, notes or obligations of a state or public corporation, or other security satisfactory to the party requiring it. When entitled to it, so much of any specie so deposited shall be paid to him, as will satisfy his judgment. Notes or obligations so deposited shall be delivered to the officer having a warrant of distress, to be by him sold as personal property is sold on execution, to satisfy the warrant and fees, and any balance shall be paid to the treasurer of the corporation. When it neglects for more than thirty days to give the security required, the owner is entitled to the remedies by injunction herein provided. (b)

SEC. 32. In all cases of petition to the commissioners of any county praying for the assessment of damages on account of any railroad corporation having taken lands therein, the notice to the adverse party of the time and place of the hearing thereon, shall be a personal notice of fourteen days, or by publication of the petition and order of notice thereon in some newspaper published in said county, two weeks successively, the last publication to be fourteen days before said hearing.

SEC. 33. Said commissioners shall order the corporation to make and maintain such cattle-guards, cattle-passes, and farm-crossings as they think reasonable; prescribe the time and manner of making them, and consider this work in awarding pecuniary damages; and if the corporation after forty-eight hours' notice in writing to its president or superintendent,

(a) 47 Me., 443; 66 Me., 40.

(b) 34 Me., 252; 47 Me., 446; 52 Me., 208; 59 Me., 537; 64 Me., 506; 65 Me., 249; 67 Me., 360; 72 Me., 99; 77 Me., 602; 86 Me., 130; 96 Me., 395, 396.

neglects to commence the work or complete it within a reasonable time, the owner may apply to the supreme judicial court, and the court, after due notice to said corporation, shall issue all necessary processes to enforce the specific performance of such orders, or restrain it by injunction; or the party interested may recover, in an action on the case, double the damage that he has sustained by such neglect.

SEC. 34. Said commissioners in awarding damages for land or other property taken by any railroad company may, on the application of such railroad company, prescribe such terms and conditions, in all respects, for the use of the land or property taken, by the owners thereof, and the railroad company respectively, as will secure the best accommodation of the owners, and the proper and convenient use of the same by such railroad company. In case of appeal by either party, the only question in issue shall be the amount or measure of damages on the terms and conditions imposed by the commissioners.

SEC. 35. Said commissioners shall at a regular session, make a report of their general estimate of damages, stating therein specifically, the terms and conditions imposed by them and the rights and obligations of each party, and cause it to be recorded; their clerk shall then make out a notice to each person, stating the amount of damages awarded to him, which shall be served by an officer on those resident in the state, and upon others, if any, by a publication three weeks successively in a newspaper printed in the county, if any, if not, in the state paper. The expense of notices shall be added to the costs of the proceedings and paid accordingly. The commissioners shall be paid the same for their services as in cases of highways; and in cases between the owners and occupants of lands and corporations, they shall be paid by the corporation. (a)

SEC. 36. Any person aggrieved by the decision or judgment of the county commissioners in relation to damages for land taken for railroad purposes, may appeal to the next term of the supreme judicial court to be held in the county where the land is situated, more than thirty days from the day when the report of the commissioners is made, excluding the day of the commencement of the session of said court, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal, but no committee or jury shall alter the requirements in the report of the commissioners. The appellants shall serve written notice of such appeal upon the opposite party fourteen days at least before the session of said court, and shall at the first term file a complaint setting forth substantially the facts of the case. On the trial, exceptions may be taken as in other cases. (b)

SEC. 37. When the proceedings are closed, the corporation may deposit with the clerk the amount of damages, with interest thereon from the time when the estimation was recorded, and legal costs, in full satisfaction therefor, unless a demand had been previously made and payment neglected.

SEC. 38. When the damages remain unpaid for more than thirty days after they are due and demanded, a bill in equity may be filed in court, in term time or vacation, by the person entitled to them, praying for an injunction against the use or occupation of his land taken. If proceedings

—liable for
double
damages.
84 Me., 39.
85 Me., 311.

County com-
missioners,
in awarding
damages for
property
taken by
railroad, may
prescribe
terms and
conditions.
1893, c. 236.
See § 35;
c. 53, § 18.

Commission-
ers to report
damages and
rights of
each party.

—notice.
R. S., c. 51, § 22.
See c. 53, § 18.

—expenses.
See c. 80, § 22.

Appeal from
decision of
county com-
missioners,
when made.
R. S., c. 51, § 23.

—damages,
how
determined.
See c. 53, § 18.

—notice of
appeal, how
made.

—exceptions
may be taken.

Company
may deposit
damages,
interest and
costs.
R. S., c. 51, § 24.
See c. 53, § 18.

When dam-
ages are not
paid, bill in
equity may
be filed and
injunction

(a) 45 Me., 267; 52 Me., 208; 60 Me., 286; 64 Me., 506; 65 Me., 249; 67 Me., 292; 81 Me., 481.

(b) 60 Me., 286; 63 Me., 363; 65 Me., 230; 67 Me., 292; 70 Me., 499; 81 Me., 481.

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issued; or owner may pray for an estimate of damages to be ordered by the court.
 R. S., c. 51, § 25.
 See c. 53, § 18.
 56 Me., 537.
 58 Me., 281.
 66 Me., 53.
 72 Me., 100.

Service of process and notices.
 R. S., c. 51, § 27.
 See c. 53, § 18.

Proceedings for breach of injunction.
 R. S., c. 51, § 27.
 See c. 53, § 18.

City or town may aid in construction of road.

—may make contracts.
 R. S., c. 51, § 135.
 See c. 53, § 18.

[See Amendment xxii.]
 67 Me., 298.

—vote, how taken and declared.

—duty of clerk and of town officers.

Provisions for payment of loan.
 R. S., c. 51, § 136.
 1891, c. 77.
 See c. 53, § 18.

How meetings in cities shall be

for an estimation of damages are not commenced within three years, and the owner of the land files a bill praying therefor, the court may estimate the damages, decree their payment and issue an execution therefor; and the plaintiffs shall be entitled to a bill for an injunction; and in either case, any justice of the court, after summary notice to the corporation and upon proof of the facts, may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. The bill shall be entered, service of it made, and continued at the next term after the injunction is issued. At the second term, if payment has not been made, the injunction may be made absolute; and all rights acquired by taking the land, and all rights of property in and to whatever has been placed upon it, cease, and the owner may maintain an action for its recovery and protection.

SEC. 39. Service of process and notice may be made upon the president of the corporation; when no president, upon any of its officers; and when no officer, upon a stockholder. Service of an injunction issued against any person, whether a party to the bill or not, may be made upon him, and he shall be liable to all the penalties and consequences provided for a breach of it.

SEC. 40. The court may order persons violating such injunction, after service, or using the land, to show cause at a time fixed, why a decree should not be entered and execution issued against them individually, and their goods and estate, for the damages, interest, costs, and for additional damages and costs for breach of the injunction. Upon service and return of such order, the court may enter such decree as is just and equitable against such persons, and issue execution accordingly; or may proceed against them as for breach of injunction in other chancery cases.

TOWNS MAY AID IN THE CONSTRUCTION OF RAILROADS.

SEC. 41. A city or town by a two-thirds vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time, or all at once, a sum not exceeding in all five per cent on its regular valuation for the time being, to aid in the construction of railroads, in such manner as it deems proper, and for such purpose may contract with any person or railroad corporation. At such meetings the legal voters shall ballot, those in favor of the proposition, voting "Yes," and those opposed, voting "No." The ballots cast shall be sorted, counted and declared in open town meeting, and recorded, and the clerk shall make return thereof to the municipal officers, who shall examine such return, and if two-thirds of the ballots cast, are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

SEC. 42. A city or town raising money by loan as aforesaid or under authority conferred by special act of the legislature, shall raise and pay or fund besides the interest, each year after the third, not less than three per cent of the principal. Any city or town receiving money, bonds, certificates of indebtedness or other evidence of debt in consideration of exchange, release or sale of its securities held to indemnify said city or town for having loaned its credit, or issued its bonds in aid of any railroad shall hold such money, bonds, certificates of indebtedness, or other evidence of debt or the proceeds thereof as a trust fund to liquidate such outstanding liabilities so long as they may continue.

SEC. 43. Meetings for the purposes aforesaid in cities, shall be called by the municipal officers, on the order of the common council, like meetings

for the election of city officers; and said council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting "Yes," and those opposed, voting "No," and the ballots cast shall be sorted, counted and declared in open ward meeting and recorded; the clerks shall make returns thereof to the municipal officers, who shall examine the same; and if two-thirds of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry it into effect. Lists of voters for use at such meetings shall be prepared in the same manner as for meetings for elections of town or city officers, and such lists shall be used at all meetings held under this section and section forty-one.

SEC. 44. Whenever a city or town has voted at any legal meeting thereof upon any question of loaning its credit to, or taking stock in, or in any way aiding any person or corporation, said city or town shall not vote again upon the same subject, except at its annual meetings.

SEC. 45. When a city or town holds stock in a railroad, the municipal officers thereof, or an agent appointed by them in writing, may vote thereon at any meeting of the corporation.

SEC. 46. Whenever any city or town in the state, in its corporate capacity, holds one-fifth, or more, of the shares in the capital stock of any railroad incorporated by the legislature, any citizen thereof, being a freeholder and resident therein, is eligible as a director of such railroad company.

CONTRACTORS' LABORERS PROTECTED.

SEC. 47. Every railroad company, in making contracts for the building of its road, shall require sufficient security from the contractors for the payment of all labor thereafter performed in constructing the road by persons in their employment; and such company is liable to the laborers employed, for labor actually performed on the road, if they, within twenty days after the completion of such labor, in writing, notify its treasurer that they have not been paid by the contractors. But such liability terminates unless the laborer commences an action against the company, within six months after giving such notice. (a)

THE RAILROAD COMMISSIONERS.

SEC. 48. The governor, with the advice and consent of the council, shall appoint three railroad commissioners who shall act as a board and hold their offices for three years; one of them shall be learned in the law and appointed and commissioned as chairman; one of them shall be a civil engineer who shall have had experience in the construction of railroads; and the third shall have had experience in the management and operation of railroads. Said board shall be provided with an office and suitable rooms for hearing in which its records shall be kept; the board may expend a sum not exceeding thirty-two hundred dollars annually in procuring necessary books, maps, stationery and statistics, and in defraying expenses incidental and necessary to the discharge of its duties and procuring the assistance of a mechanical expert in the examination of iron bridges. A statement of such expenses shall accompany its annual report. Said board shall also have a clerk and an assistant clerk, both of whom shall be

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called, and votes cast and counted.
R. S., c. 51, § 137.
See c. 53, § 18.

To vote only once a year on same question.
R. S., c. 51, § 138.
See c. 53, § 18.

Town agents may vote on town stock.
R. S., c. 51, § 139.
See c. 53, § 18.

Railroads owned in part by towns, eligibility of citizens as directors.
R. S., c. 51, § 140.
See c. 53, § 18.

Liability of railroad companies for payment of laborers.
R. S., c. 51, § 141.
See c. 53, § 18.

—termination of liability.

Railroad commissioners, their appointment and tenure.

—qualification.
R. S., c. 51, § 113.
1889, c. 313, § 1.

—shall keep record.

—expenses.
1897, c. 181.

—appointment and duties of clerk and assistant clerk.
1901, c. 254, § 1.

(a) 85 Me., 372; 86 Me., 316; 87 Me., 245; 93 Me., 137; 95 Me., 530; 97 Me., 507.

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appointed by the governor on the recommendation of the board. The clerk shall keep a full and minute record of the proceedings of the board; the assistant clerk shall assist the clerk in the performance of his duties, and in the absence of the clerk shall have the same powers as the clerk.

Annual reports.
R. S., c. 51, § 60.
1891, c. 6, § 1.
97 Me., 269.

—form.

SEC. 49. Every railroad corporation shall, by September first, make an annual return to the railroad commissioners of its operations for each year ending June thirty, verified by the oath of its treasurer, which return shall be in the form required to be made for the same year to the Interstate Commerce Commission of the United States, with such additions for any year as may be prescribed before the beginning of the year by the railroad commissioners of the state. Blank forms for said returns shall be seasonably prepared and furnished to each railroad corporation by said commissioners. Any railroad corporation wilfully neglecting to make such return, forfeits one thousand dollars to the state, to be recovered in an action on the case, or by complaint and indictment; and said commissioners shall notify the attorney general of such neglect, who shall prosecute for the recovery of such forfeiture.

—penalty for neglecting to make return.
See c. 8, § 29.

Board to examine railroads and rolling-stock, when necessary, and make annual reports.
R. S., c. 51, § 114.
1903, c. 176.
See c. 53, § 18.

SEC. 50. A majority of the board, annually, between the first of April and October, and at any other time on application or whenever they think necessary, shall carefully examine the tracks, rolling-stock, bridges, viaducts and culverts of all railroads; and shall annually in December make a report to the governor of their official doings, therein stating the condition of the road and rolling-stock, with such facts as they deem of public interest or which he may require; and all persons managing railroads shall give the board such information as they at any time request.

Passenger trains shall not be run over any new railroad until granted certificate of safety by railroad commissioners.
1885, c. 292.

SEC. 51. No passenger train shall be run over any new railroad, or over any railroad in process of construction, until the railroad commissioners have made an inspection of such railroad and granted a certificate of its safety for public travel. Any person or corporation, violating the provisions of this section, forfeits to the state one hundred dollars for each offense, to be recovered in an action on the case, or by complaint and indictment; and the attorney general shall institute proceedings to recover the same.

—penalty for violation.

May employ experienced engineer to examine bridges.
1889, c. 313, § 2.

SEC. 52. Every railroad corporation shall, when requested by the board of railroad commissioners, have an examination made of any iron bridge or other structure, by a competent and experienced mechanical engineer, who shall report to the board forthwith the results of his examinations, his conclusion and recommendations, and transmit a copy of the same to the corporation. The report shall furnish such information in detail, and with such drawings and prints, as may be in writing requested by the board of railroad commissioners.

Railroad corporations shall furnish reasonable facilities.
1889, c. 313, § 3.
Road unsafe, board to notify managers.
R. S., c. 51, § 116.
See c. 53, § 18.

SEC. 53. Every railroad corporation within the state shall furnish all reasonable facilities to the board of railroad commissioners for the prompt and faithful discharge of the duties prescribed under this chapter.

SEC. 54. If the board, at any examination, find the track, culverts, bridges or rolling-stock in use so out of repair as to be unsafe for travelers, they shall immediately notify the managers of said road of its condition, and the time in which the repairs shall be made; and may require them to reduce the speed of all trains until the repairs are made.

If managers do not comply, railroad commissioners to apply to supreme judicial court to

SEC. 55. If said managers do not comply with such requirements, the commissioners shall petition the supreme judicial court in any county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement, and refusal to comply; and shall notify the attorney general or the attorney of such county, of the filing

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of said petition, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the managers of the road as they deem necessary to secure the safety of travelers; and unless such managers execute a bond to the state, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or otherwise satisfy the court that they will be so made, the court shall issue an injunction on said corporation and its managers, prohibiting the running of any passenger trains over the portion of the road found to be unsafe, until the order has been complied with or revoked.

SEC. 56. When, in the opinion of the railroad commissioners, the passage of passenger trains over any portion of a railroad would be attended with imminent danger, they may notify the president or superintendent of such road and order the immediate stopping of all passenger trains about to run over such portion thereof. If their order is not obeyed, said commissioners shall at once apply to some justice of the supreme judicial court, who may, upon satisfactory proof of the necessity for such order, and without notice to said company, issue an injunction prohibiting the running of passenger trains over said road until further order of the court.

SEC. 57. When the managers of a railroad authorized to cross or connect with another road, are unable to agree therewith, as to transportation of passengers and freight over their roads, and upon other matters, or when the managers of the latter road neglect or fail or refuse to perform the requirements, provisions or conditions of the charter under which they hold and operate their railroad and acts additional and amendatory thereto, they may apply to said commissioners in writing, and either of them may indorse an order of notice thereon to all interested, fixing a time and place for hearing; and the applicant shall cause such order to be complied with. At such hearing any corporation or person claiming to be interested, may be made a party and be heard thereon, though not named in the application; said commissioners have the authority of courts of law to summon witnesses, and compel their attendance and testimony, and depositions may be taken and used as in suits at law. When the hearing is closed, they shall determine and award the rates for transporting passengers, freight or cars over the road of each, or over any road on which either is a common carrier by contract or otherwise, and all other matters in controversy between the two roads arising from such connecting or crossing, or the times of doing so; and may require either party to give security to the other for the payment of balances resulting from their mutual business, on such terms as they deem equitable; and may determine that their award may be suspended, after its acceptance, at the election of the party injured by the non-performance of the conditions thereof by the other.

SEC. 58. The award shall be returned to the supreme judicial court in the county where the hearing was had, and accepted, or for good cause, rejected or recommitted. Exceptions to any ruling of the court in such proceedings may be taken and allowed within the rules of the court, except in recommitting the report; and when so allowed, a certified copy thereof and of all papers used at the hearing, shall be forthwith sent by the clerk of the court to the chief justice; and the parties shall be heard thereon by the law court in the district where the hearing was had; but if such court does not sit within thirty days after the papers are received by the chief

compel them,
or enjoin.
R. S., c. 51, § 117.
See § 63;
c. 53, § 18.

Commissioners to prohibit passenger trains from running over railroads when unsafe.
R. S., c. 51, § 118.
See c. 53, § 18.

When connecting railroads do not agree as to transportation of passengers and freight, they may apply to the commissioners to make award in the matter.
R. S., c. 51, § 119.
1891, c. 44.
See c. 52, § 14.

Award to be returned to court for action.
R. S., c. 51, § 120.
See c. 52, § 14.

—exceptions may be taken, and how heard.

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—award, when accepted, binding; and court shall make it effectual.

—penalty.

Station grounds shall not be taken by another company.
R. S., c. 51, § 121.
See c. 23, § 31.

Use of railroad passenger stations, regulated.
1887, c. 120.

The commissioners may order the erection of a station.
R. S., c. 51, § 122.
142 U.S. 492, 503.
63 Me., 274, 284.

Site and kind of station.
R. S., c. 51, § 123.
63 Me., 284.

Proceedings, if company refuses.
R. S., c. 51, § 124.
63 Me., 284.

justice, he shall, at the request of either party, detail a majority of the justices to hear the case at the time and place ordered by him; send the order to the clerk of the court where the matter is pending, and he shall enter it on the docket under the case, and that shall be sufficient notice to the parties; and the case shall then and there be heard as if at a regular law term. When the award is accepted and judgment rendered thereon, it is binding on all parties notified, whether they appeared or not, until a new award is made on another application; the court has full power to make the award effectual by process for contempt or otherwise as in equity cases; and if the corporation or managers of any such road, after they are notified of the acceptance of such award, fail to comply with it, the directors, superintendent or other agents operating the same shall be fined not less than ten, nor more than fifty dollars for each day of such failure, to be recovered by indictment in the county where it occurs.

SEC. 59. No railroad corporation shall take the grounds occupied by any other railroad company and necessary for its use for station purposes, without its consent. When application is made to take such grounds, the railroad commissioners, upon notice and hearing thereon, shall determine whether the land proposed to be taken is necessary as aforesaid or not and whether any public necessity requires it to be taken.

SEC. 60. Whenever any railroad passenger station shall be erected or maintained in any city or town in this state, any railroad corporation having or using a track or passenger station within such city or town, shall have the right to run its passenger trains to and from such station, over any railroad track or tracks leading thereto as herein provided, and to use the same for the purpose of delivering and receiving through passengers, under such reasonable terms and regulations, and over such tracks as may be agreed upon by the owner of such station, the railroad whose tracks are used in running to and from the same, and the railroad corporation so desiring its use for said purpose, and in case of disagreement, upon petition, notice and hearing thereon, the railroad commissioners shall fix and determine such terms, tracks and regulations. No corporation which shall deny, in any proceedings, the authority of the railroad commissioners to proceed and make the determination as herein provided, or which shall refuse to abide by their decision rendered therein, shall avail itself of the provisions of this section.

SEC. 61. The railroad commissioners, upon petition of responsible parties, representing that public convenience and necessity require the erection and maintenance of a station for freight and passengers, or for passengers alone, on the line of any railroad, after fourteen days' notice by copy of said petition upon such corporation, and by publishing said petition, with the order of said commissioners thereon, in such public newspaper as is designated in said order, two weeks successively, the last publication to be prior to the time fixed for said hearing, shall hear the parties and determine whether the prayer of the petitioners shall be granted; and if such prayer is granted, they shall determine at what place or places a station shall be erected, or maintained if erected, and whether for passengers or for passengers and freight.

SEC. 62. Said commissioners shall designate the site and the kind of buildings to be erected and maintained, as the case seems to demand, and the time in which such corporation shall comply with said order.

SEC. 63. If said corporation refuses or neglects to comply with the order of said commissioners, within the time prescribed therein, they shall enforce a compliance as provided in section fifty-five.

SEC. 64. In all cases heard before the commissioners under the three preceding sections, the expenses and costs attending the same, including the compensation of the commissioners, shall be paid by the corporation against whom the complaint is made, if the prayer of the petitioners is granted, but if their prayer is denied, such expenses, costs and compensation shall be paid by the petitioners. If the party against whom costs are so adjudged refuses or neglects to pay them within thirty days after such adjudication, upon complaint for such costs made by said commissioners to any justice of the supreme judicial court, such justice may cause execution to issue therefor.

Costs of hearing to be paid by losing party.
R. S., c. 51, § 125.

CROSSINGS REGULATED.

SEC. 65. Railroads may cross highways or town ways in the line of the railroad, but cannot pass along them without leave of the town, but when a railroad is hereafter laid out across a highway or other public way, it shall be constructed so as to pass either over or under such way, unless the railroad commissioners after notice and hearing authorize a crossing at grade. Before entering upon the construction of any railroad, the manner and conditions of crossing shall be determined as provided by section twenty-nine of chapter twenty-three. But no crossing of a street in a city, not a highway, shall be made without the written consent of the mayor and aldermen. Crossings not so made are nuisances, and may be so treated, and the directors of railroad corporations making them, are personally liable.

Crossings of highways and streets, how made.
1839, c. 282, § 2.
R. S., c. 51, § 28.
45 Me., 563.
49 Me., 11, 121, 156.
51 Me., 315.
57 Me., 134.
58 Me., 47.
65 Me., 282.
77 Me., 602.
78 Me., 67.
87 Me., 249.

SEC. 66. Highways and other ways may be raised or lowered, or the course of the same may be altered to facilitate a crossing or to permit a railroad to pass over or under the same or at the side thereof, on application to the railroad commissioners, and proceedings as provided by section twenty-nine of chapter twenty-three; and for such purposes land may be taken and damages awarded as provided for laying out highways and other ways. The railroad commissioners may prescribe the manner in which the work shall be done by the corporation. While the use of any way is thereby obstructed, a temporary way shall be provided by the corporation.

Ways may be raised or lowered, or course altered, on application to railroad commissioners.
1839, c. 73, § 2.
R. S., c. 51, § 23.
38 Me., 30.
49 Me., 121, 157.
87 Me., 253.

SEC. 67. When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in an action on the case, commenced within one year after performance is required. (a)

Neglect subjects to damages.
R. S., c. 51, § 30.

SEC. 68. A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making such crossing is liable for damages occasioned thereby in an action on the case. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to such persons, parties or corporations, that a bridge required at such crossing has not been erected, or is out of repair, and not safe and convenient, within the requirements of section fifty-six of chapter twenty-three, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient, as required by said section; and such persons, parties or corporations, shall erect or repair such bridge, or make such crossing safe and convenient, as aforesaid, within ten days from the service of said notice; and if they neglect so to do, any one of

Railroad may be carried over or under a canal or railroad.
R. S., c. 51, § 31.
97 Me., 155.

—bridges and abutments to be kept in repair.

—notice when bridge or crossing is not safe and convenient.

—repairs within ten days from service of notice.

(a) 49 Me., 126; 51 Me., 315; 67 Me., 357.

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—proceedings in case of further neglect.

Company shall erect and maintain bridge-guards.
R. S., c. 51, § 32.

—penalty for refusal, neglect or injury.

Bell on engine, and when to be rung.
R. S., c. 51, § 33.

—whistle or bell sounded for warning.

—signs at crossing.
56 Me., 441.
57 Me., 134.
67 Me., 105.
97 Me., 161.

Town officers may request company to provide gates at railroad crossings.
R. S., c. 51, § 34.
1895, c. 165, § 1.
88 Me., 225.
89 Me., 563.

—application to railroad commissioners, in case of refusal.

Penalty for neglect of two preceding sections, and liability to action for damages.
R. S., c. 51, § 35.
57 Me., 134.

Railroad commissioners may determine manner in which railroads shall cross each other.
1895, c. 72, § 1.

said municipal officers may apply to any justice of the supreme judicial court, in term time or vacation, to compel such delinquents to erect or repair such bridge, or make such crossing, as aforesaid; and after hearing, such justice or court may make any order thereon which the public convenience and safety require, and may, by injunctions compel the respondents to comply therewith; or said officers may, after ten days from the service of such notice, cause necessary repairs to be made, and the expense thereof shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.

SEC. 69. Every railroad corporation shall erect and maintain suitable bridge-guards at every bridge or other structure, any portion of which crosses the railroad less than twenty feet above the track; such guards must be approved by the railroad commissioners, and be erected and adjusted to their satisfaction. Any corporation refusing or neglecting to comply with this section, for each month of continuance in such neglect or refusal, forfeits fifty dollars; and whoever wilfully destroys or breaks any such bridge-guard forfeits not exceeding one hundred dollars, and may be imprisoned not exceeding thirty days.

SEC. 70. A bell of the weight of thirty-five pounds or more shall be placed on each engine used on a railroad, and shall be rung at the distance of eighty-five rods or more from the crossing of a way on the same level or running contiguous thereto, and kept ringing until the engine has passed the same; and a steam whistle, or, in cities and villages, a bell, shall be sounded as a warning at a distance of a hundred rods; and boards, with the words, "Railroad Crossing," distinctly painted thereon, on each side, in letters plainly legible, shall be placed on the side of a way where it is crossed by a railroad, on a post or other structure, in such position as to be easily seen by persons passing upon such way.

SEC. 71. When the municipal officers of a town deem it necessary for public safety, that gates should be erected across a way where it is crossed by a railroad, and that a person should be appointed to open and close them, they may make such request in writing; and in case of neglect or refusal they may apply to the railroad commissioners to decide upon the reasonableness of such request, who after notice and hearing, shall decide. When they decide that such a request is reasonable, or that at said crossing a flagman or automatic signals are necessary for the public safety, they may, upon said application, order a flagman to be stationed or automatic signals to be maintained there instead of gates, and the corporation shall comply with such order and pay the costs; when they decide otherwise, the costs shall be paid by the applicants.

SEC. 72. For unnecessarily neglecting to comply with any provision of the two preceding sections, the corporation forfeits not exceeding five hundred dollars. Any person, whose duty it is to open or close such gates for the passage of an engine or traveler on a way, neglecting to do so, forfeits not exceeding fifty dollars. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent, or for the mismanagement of an engine, to be recovered in an action on the case by the person damaged thereby.

SEC. 73. The board of railroad commissioners shall determine the manner and conditions of one railroad of any kind crossing another. Any corporation or party operating such railroad may apply to said board for a change in the then existing condition, construction or manner of any such crossing. Such application shall be in writing, giving the location

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of the crossing, and said board shall give a hearing thereon, after they have ordered such notice to be given by the applicants, as to the time, place and purposes of such hearing, as said board shall deem proper. Said board shall determine at such hearing what changes, if any, are necessary, and how such crossings shall be constructed and maintained, the expense thereof to be borne as the railroad commissioners may order.

SEC. 74. In the case of a railroad company of any kind whose tracks are to be constructed across the tracks of any railroad already built, such crossings shall be made, constructed and maintained in such manner and under such conditions as shall be ordered by the board of railroad commissioners, the expense thereof to be borne as the railroad commissioners may order. The parties contemplating making such crossing shall apply to the railroad commissioners in writing, giving the location of the crossing desired, and said commissioners shall give a hearing thereon after they shall have ordered such notice to be given by the applicants of the time, place and purposes of such hearing as said board shall deem proper. At such hearing the board of railroad commissioners shall determine the manner and conditions of construction and maintenance of such crossing and make their report as hereinafter provided.

SEC. 75. Bridges erected by any municipality, over which any street railroad passes, shall be constructed and maintained in such manner and condition, as to safety, as the board of railroad commissioners may determine. Said board may require the officers of the railroad company and of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as said board may deem proper. Said commissioners shall determine at such hearing the repairs, renewals or strengthening of parts, or if necessary, the manner of rebuilding such bridge, required to make the same safe for the uses to which it is put. They shall determine who shall bear the expenses of such repairs, renewals, strengthening or rebuilding, or they may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by the board just and fair, and shall make their report as hereinafter provided.

SEC. 76. The board of railroad commissioners shall make a report in writing of their decision in all matters named in the three preceding sections, file the same in their office, and cause a copy of such decision to be sent by mail to each of the railroad corporations, or the municipal officers of the cities or towns as the case may be, interested therein. Such decision shall be final and binding upon all parties named, unless an appeal therefrom shall be taken and entered in the next succeeding term of the supreme judicial court, to be held in the county where the crossing or bridge is located, after thirty days from the date of the report.

SEC. 77. If any appeal shall be taken as provided in the preceding section, the appellant shall within thirty days from the date of the filing of such decision, file in the office of the board of railroad commissioners, its reasons of appeal, and fourteen days at least before the sitting of the appellate court, it shall cause a copy of such reasons, certified by the clerk of the board of railroad commissioners, to be served upon such other interested corporation or municipality. 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 by the clerk of courts in the county where the crossing or bridge is located, and a copy of the same shall be

—application,
notice and
hearing,
89 Me., 334, 563.

Crossing over
railroad
already built,
shall be made
as ordered by
railroad com-
missioners.
1895, c. 72, § 2.
89 Me., 334.

—application,
notice and
hearing.

Bridges
erected by
municipali-
ties shall be
maintained as
commission-
ers may de-
termine after
hearing.
1895, c. 72, § 3.

See c. 53, § 7.

Commission-
ers shall
make report
of their
decisions, and
send copies
to parties
interested.
1895, c. 72, § 4.
89 Me., 334.

—when
appeals may
be taken.

Appellant
shall file
reasons of
appeal, and
copy shall be
served on
other party.
1895, c. 72, § 5.

—final adjudi-
cation shall
be recorded.

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—costs, how taxed.

During pendency of appeal commissioners may determine temporary conditions of crossing. 1901, c. 191.

certified by said clerk to the board of railroad commissioners for record in their office. Costs may be taxed and allowed to either party at the discretion of the court.

SEC. 78. Whenever any railroad company of any kind, whose tracks are to be constructed across the tracks of any railroad already built, shall apply to the railroad commissioners to determine in what manner and under what conditions such crossings shall be made, constructed and maintained and how the expense thereof shall be borne and an appeal is taken from the decision of the railroad commissioners thereon, the board of railroad commissioners may, if they find that public necessity and convenience require it, notwithstanding said appeal, determine the manner and conditions of construction and maintenance of such crossing during the pendency of said appeal or of any legal proceedings that may delay final decree on said application and shall issue the necessary temporary decree therefor.

Note. Duties of railroad companies in the prevention of forest fires, c. 7, §§ 60-62. Ways may not be located over land of railroad company without notice to company, c. 23, § 28. Railroad commissioners to determine whether crossing shall be at grade or not, c. 23, § 29; whether way shall be laid out across land used for station purposes, c. 23, § 31. Railroad companies may be notified and take upon themselves defense of action for damages at crossing, c. 23, § 80.

CHAPTER 52.

THE MANAGEMENT AND OPERATION OF STEAM RAILROADS.

Railroad companies may establish fares and tolls, subject to revision and alteration by the legislature or railroad commissioners. R. S., c. 51, §§ 9, 43. 53 Me., 282. 86 Me., 276.

SEC. 1. Any railroad corporation may establish and collect, for its sole benefit, fares, tolls and charges, upon all passengers and property conveyed and transported on its railroad, at such rates as may be determined by the directors thereof, and shall have a lien on its freight therefor; and may from time to time by its directors regulate the use of its road; *provided* that such rates of fares, tolls and charges, and regulations are at all times subject to alteration by the legislature, or by such officers or persons as the legislature may appoint for the purpose, anything in the charter of such corporation to the contrary notwithstanding; and *provided further* that, upon what shall, at any time, be deemed by the railroad commissioners a sufficient complaint, by interested and responsible parties, that the tolls are unreasonably high, said commissioners may revise and establish them, after due notice and hearing, for a time not exceeding one year. But the commissioners before directing said hearing, shall give opportunity to the company complained of, to reply to the charge.

Railroad tickets, good for six years. R. S., c. 51, § 44. 60 Me., 519. 67 Me., 165. 72 Me., 389. 84 Me., 286.

—special tickets.

Railroad tickets, cancellation and exchange of. R. S., c. 51, § 45.

SEC. 2. No railroad company shall limit the right of a ticket-holder to any given train, but such ticket-holder may travel on any train, whether regular or express, and may stop at any of the stations along the line of the road at which such trains stop; and such ticket shall be good for a passage as above for six years from the day it was first issued; *provided*, that railroad companies may sell excursion, return, or other special tickets at less than the regular rates of fare, to be used only as provided on the ticket.

SEC. 3. The preceding section shall not prevent railroad corporations from establishing necessary rules and regulations for the cancellation of tickets, and exchange of partially used tickets; but such rules and regulations shall be publicly posted at each ticket office and on all passenger trains, and when practicable, printed upon the tickets. And any ticket or