

MAINE STATE LEGISLATURE

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SIXTH REVISION

THE
REVISED STATUTES

OF THE

STATE OF MAINE

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By the Authority of the Legislature

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Sec. 70. Substantial compliance with law, sufficient; no waiver of right of action. 1913, c. 129, § 68. A substantial compliance with the requirements of this chapter shall be sufficient to give effect to all rules, orders, acts and regulations of the commission and they shall not be declared inoperative, illegal or void for any omission of a technical or immaterial nature in respect thereto. This chapter shall not have the effect to release or waive any right of action by the state or by any person for any right, penalty or forfeiture which may have arisen or which may hereafter arise under any law of this state.

Sec. 71. Utility to first apply to commission for rights; application to legislature shall allege a denial by the commission. 1913, c. 129, § 69. No public utility shall apply to the legislature to grant it any right, privilege or immunity which the public utility commission has power to grant to said utility until said utility shall first have exhausted its rights in that behalf before said commission; and in making such application to the legislature said utility shall make a statement in writing, which shall accompany the proposed legislation, that it has applied to said commission for the right, privilege or immunity requested and that said commission has denied its application.

CHAPTER 56.

The Organization and Construction of Steam Railroads. Crossings and Bridges.

- Sections 1-23 Organization of Railroad Corporations.
- Sections 24-30 Acquisition of Real Estate for Purposes of the Road.
- Sections 31-40 Estimation and Payment of Damages.
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Organization of Railroad Corporations.

Sec. 1. Organization of railroad companies. R. S. c. 51, § 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.

110 Me. 285.

Sec. 2. Requirements as to stock before articles are filed. R. S. c. 51, § 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. Approval of articles of association; issue of certificate; certificate conclusive as to organization of corporation. R. S. c. 51, § 3. Said directors shall present to the public utilities commission a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The public utilities commission shall, on presentation of such petition appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. If the commission, 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 commission shall indorse upon said articles a certificate of such facts and the approval of the commission in writing. The secretary of state shall upon payment of the fees prescribed by section six of chapter fifty-one 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 apper-

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tain 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.)

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.

Sec. 4. Meeting for organization. R. S. c. 51, § 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, post-paid, 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.

Sec. 5. Increase of capital stock. R. S. c. 51, § 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.

See §§ 19-21.

Sec. 6. Petition for approval of location; proceedings thereon. R. S. c. 51, § 6. Every corporation organized under the foregoing provisions, before commencing the construction of its road, shall present to the public utilities commission 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 commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. If the public utilities commission, 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 public utilities commission; but the location so filed shall not vary, except to avoid expense of construction, from the route first presented to said commission, 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, how-

ever, that the public utilities commission, 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.

90 Me. 85; 105 Me. 118, 534.

Sec. 7. Building of road to be begun within three years. R. S. c. 51, § 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.

See § 10; c. 1, § 6, ¶ xxix.

Sec. 8. Map and profile of road to be filed with public utilities commission. R. S. c. 51, § 8. 1907, c. 162. Every corporation organized as aforesaid shall, within one year after any part of its road has been constructed and opened for operation, cause a map and profile thereof, and of the land taken or obtained for the use thereof, to be made and filed in the office of the public utilities commission. Every such map shall be drawn on a scale and on paper to be designated by the public utilities commission, and shall be signed by the president and engineer of the corporation.

Sec. 9. Railroad company may change gauge. R. S. c. 51, § 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 public utilities commission 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 is approved by the public utilities commission, such corporation shall make and file a new location, as provided by section eight of this chapter.

Sec. 10. Public utilities commission may revive lapsed charter. R. S. c. 51, § 10. The public utilities commission 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 said commission, in the manner provided in section nine.

Sec. 11. Petition for legislative incorporation, contents. R. S. c. 51, § 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. Company may fix number of directors. R. S. c. 51, § 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.

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Sec. 13. Any stockholder at any meeting may call for stock vote. R. S. c. 51, § 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. Railroad corporations may extend roads. R. S. c. 51, § 14. Any railroad corporation of this state may be allowed to extend its road to other points or places, on application to the public utilities commission, as provided in section nine, and by conforming to the general railroad laws of the state, so far as the same may be applicable.

Sec. 15. Use of electricity. R. S. c. 51, § 15. Any railroad corporation of this state may operate its road by electricity.

Sec. 16. Railroad corporations may aid branch or connecting road. R. S. c. 51, § 16. 1915, c. 347, § 9. 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 purposes, with the consent of the public utilities commission, 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 of such branch or of such connecting railroad.

101 Me. 358.

Sec. 17. May hold shares in another road. R. S. c. 51, § 17. 1915, c. 347, § 19. 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, subject to the approval of the public utilities commission in accordance with the procedure set forth in chapter fifty-five.

Sec. 18. May increase holdings. R. S. c. 51, § 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.

Sec. 19. Railroad corporation may increase its capital stock beyond amount first authorized. R. S. c. 51, § 19. 1909, c. 39. A railroad corporation for the purpose of building a branch railroad track which it is or may be authorized to build, or of building a branch or extension 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 public utilities commission as hereinafter provided, may increase its capital stock beyond the amount fixed

by law by issuing common or preferred stock, 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. If preferred stock is issued, the character of such stock including its voting power, if any, and the rate of interest it shall bear and whether it shall be cumulative or non-cumulative shall be fixed by vote of a majority of stock present or represented at such legal meeting.

See § 5.

Sec. 20. Proceedings before public utilities commission. R. S. c. 51, § 20. Upon petition of the directors of the railroad corporation to the public utilities commission, the amount of such increase after such notice by publication as the commission shall order, and after hearing, shall be determined by said commission, 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.

Sec. 21. When stock is increased it shall be offered to stockholders proportionately; notice to each stockholder; sale of shares unsubscribed for. R. S. c. 51, § 21. 1909, c. 32. Whenever a railroad corporation which is in actual possession of and operating a railroad increases its capital stock under the provisions of the preceding section, the new shares shall be offered proportionately to its stockholders at such price, not less than the par value thereof, as shall be determined by its stockholders. The directors, upon the approval of such increase as provided in the preceding section, shall cause written notice of such increase to be given to each stockholder of record upon the books of the company at the date of the vote to increase, stating the amount of the increase, the number of shares or fraction of shares to which, according to the proportionate number of his shares at the date of the vote to increase, he is entitled, the price at which he is entitled to take them, and fixing a time not less than fifteen days after the date of such vote to increase within which he may subscribe for such additional stock. Each stockholder may, within the time limited, subscribe for his portion of such stock, which shall be paid for in cash before 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, without first offering the same to the stockholders, may sell the same at auction to the highest bidder at not less than the par value thereof. 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 may 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 public utilities commission; and notice of the time and place of such sale shall be published at least five times during the ten days immediately preceding

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the time fixed for the sale, in such daily newspapers, not less than three in number, as may be prescribed by the commission. No shares shall be sold or issued for a less sum, to be actually paid in cash, than the par value thereof. Provided further, that the determination by the public utilities commission, under the provisions of the preceding section as to the amount of such increase, shall be based upon the price at which such stock is to be issued as fixed by the stockholders, and that said commission shall refuse to approve any particular issue of stock if, in their opinion, the price fixed by the stockholders is so low as to be inconsistent with the public interest.

Sec. 22. Penalty for issuing stock contrary to the provisions of §§ 19-21. R. S. c. 51, § 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 punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both fine and imprisonment.

Sec. 23. Powers of railroad corporations under existing law not affected. R. S. c. 51, § 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. Land may be bought or taken. R. S. c. 51, § 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.

See §§ 26, 28, 29, 31.

35 Me. 258; 40 Me. 556; 41 Me. 20; 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;
105 Me. 117, 532.

Sec. 25. Location to be filed and recorded; remedy for defective location; subscriptions, when released by new location; proceedings before county commissioners. R. S. c. 51, § 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.

59 Me. 536; 83 Me. 277; 97 Me. 47; 105 Me. 118, 534.

Sec. 26. Railroad corporation may take additional land for improving its road-bed, stations, repair-shops; proceedings before public utilities commission. R. S. c. 51, § 26. 1913, c. 115. 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 public utilities commission, describing the estate, and naming the persons interested; the commission 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 make a certificate containing a definite description thereof and furnish the corporation with a true copy thereof, attested by the clerk of the commission; and when such copy of the 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 commission 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.

66 Me. 38-46; 84 Me. 39; 85 Me. 67.

Sec. 27. Change in location of railroad. R. S. c. 51, § 27. Any railroad corporation, under the direction of the public utilities commission, 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.

90 Me. 92.

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Sec. 28. May take land necessary for making any change. R. S. c. 51, § 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 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. Limitation of right to enter on or take land. R. S. c. 51, § 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, meetings-houses, dwelling-houses or public or private burying-grounds.

See c. 58, § 24; 47 Me. 443; 66 Me. 40.

Sec. 30. Authority to build branch tracks. R. S. c. 51, § 30. 1905, c. 127. 1907, c. 92. 1913, c. 126. Any railroad corporation, under the direction of the public utilities commission, may locate, construct and maintain branch railroad tracks to any railroad station of another corporation or to connect with another railroad or to any mills, mines, quarries, gravel-pits, log landing or yard, warehouses and storehouses, educational institution, 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.

See c. 58, § 24; 83 Me. 277; 98 Me. 584.

Estimation and Payment of Damages.

Sec. 31. Estimation of damages by county commissioners; guardian may release damages; damages and costs, how secured. R. S. c. 51, § 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 the location is filed, 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.

See c. 58, § 24; c. 76, § 1, ¶ vii; c. 86, § 108; 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; 105 Me. 533; 106 Me. 368; 113 Me. 379.

Sec. 32. Notice on petitions for assessment of damages. R. S. c. 51, § 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.

See c. 58, § 24; 94 Me. 390.

Sec. 33. Cattle-guards and passes to be made and maintained by road; liability for double damages. R. S. c. 51, § 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, 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.

See c. 58, § 24; 84 Me. 39; 85 Me. 311; 113 Me. 376.

Sec. 34. County commissioners, in awarding damages may prescribe terms and conditions. R. S. c. 51, § 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.

See c. 58, § 24; 113 Me. 378.

Sec. 35. Commissioners to report damages and rights of each party; notice. R. S. c. 51, § 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.

See c. 58, § 24; 45 Me. 267; 52 Me. 208; 60 Me. 286; 64 Me. 506; 65 Me. 249; 67 Me. 292; 81 Me. 481.

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Sec. 36. Appeal from decision of county commissioners; notice and proceedings. R. S. c. 51, § 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.

60 Me. 286; 63 Me. 363; 65 Me. 230; 67 Me. 292; 70 Me. 499; 81 Me. 481.

Sec. 37. Company may deposit damages, interest and costs. R. S. c. 51, § 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.

See c. 58, § 24.

Sec. 38. When damages are not paid, proceedings in equity. R. S. c. 51, § 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 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.

See c. 58, § 24; 56 Me. 537; 58 Me. 281; 66 Me. 53; 72 Me. 100.

Sec. 39. Service of process and notices. R. S. c. 51, § 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.

See c. 58, § 24.

Sec. 40. Proceedings for breach of injunction. R. S. c. 51, § 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.

See c. 58, § 24.

Towns May Aid in the Construction of Railroads.

Sec. 41. City or town may aid in construction of road; proceedings. R. S. c. 51, § 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.

See c. 58, § 24; Amendment xxii; 67 Me. 298.

Sec. 42. Provisions for payment of loan. R. S. c. 51, § 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.

See c. 58, § 24.

Sec. 43. Call for meetings in cities and proceedings. R. S. c. 51, § 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

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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.

See c. 58, § 24.

Sec. 44. City or town may vote only once a year on same question. R. S. c. 51, § 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.

See c. 58, § 24.

Sec. 45. Town agents may vote on town stock. R. S. c. 51, § 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.

See c. 58, § 24.

Sec. 46. Citizens eligible as directors. R. S. c. 51, § 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.

See c. 58, § 24.

Contractors' Laborers Protected.

Sec. 47. Liability of railroad companies for payment of laborers. R. S. c. 51, § 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.

See c. 58, § 24; 85 Me. 372; 86 Me. 316; 87 Me. 245; 93 Me. 137; 95 Me. 530; 97 Me. 507.

Inspection and Supervision by Public Utilities Commission.

Sec. 48. Public utilities commission to examine railroads and make annual reports. R. S. c. 51, § 50. 1911, c. 165. A majority of the public utilities commission, or one member thereof, 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 commission such information as they at any time require.

See c. 58, § 24.

Sec. 49. Passenger trains shall not be run until certificate of safety is granted. R. S. c. 51, § 51. 1913, c. 180. No passenger train shall be run over any new railroad, or over any railroad in process of construction, until the public utilities commission has made an inspection of such railroad and granted a certificate of its safety for public travel; and a copy of said certificate, attested by the clerk of the commission, shall be furnished the corporation operating said railroad. 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.

Sec. 50. Corporation shall employ experienced engineer to examine bridges. R. S. c. 51, § 52. Every railroad corporation shall, when requested by the public utilities commission, have an examination made of any iron bridge or other structure, by a competent and experienced mechanical engineer, who shall report to the commission 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 public utilities commission.

Sec. 51. Reasonable facilities furnished to commission. R. S. c. 51, § 53. 1915, c. 347, § 18. Every public utility within the state shall furnish all reasonable facilities to the public utilities commission for the prompt and faithful discharge of its duties, including free transportation to the commissioners, their clerks, agents and employees on any railroad, street railroad and vessel within the state, when engaged in the discharge of their public duties, or going to or returning therefrom.

See c. 58, § 24.

Sec. 52. Road unsafe, commission to notify managers. R. S. c. 51, § 54. If the public utilities commission, 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.

See c. 58, § 24.

Sec. 53. If managers do not comply, public utilities commission to apply to supreme judicial court to compel them, or enjoin. R. S. c. 51, § 55. If said managers do not comply with such requirements, the commission 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 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

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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.

See c. 58, § 24.

Sec. 54. Commission to prohibit passenger-trains from running over railroads when unsafe. R. S. c. 51, § 56. When, in the opinion of the public utilities commission, 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 commission 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.

See c. 58, § 24.

Sec. 55. When connecting railroads do not agree as to transportation of passengers and freight they may apply to the public utilities commission. R. S. c. 51, § 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 the public utilities commission in writing, and any commissioner 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 commission has 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, the public utilities commission 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. 56. Award to be returned to court for action; exceptions may be taken, and how heard; award, when accepted, binding; and court shall make it effectual. R. S. c. 51, § 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 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. 57. Station grounds shall not be taken by another company. R. S. c. 51, § 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 public utilities commission, 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.

See c. 24, § 32.

Sec. 58. Use of railroad passenger stations, regulated. R. S. c. 51, § 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 public utilities commission shall fix and determine such terms, tracks and regulations. No corporation which shall deny, in any proceedings, the authority of the public utilities commission 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. 59. The public utilities commission may order the erection of a station. R. S. c. 51, § 61. The public utilities commission, upon petition of responsible parties, representing that public convenience and necessity require the erection and maintenance of a station for freight and passen-

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gers, 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 commission 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.

142 U. S., 492, 503; 63 Me. 274, 284.

Sec. 60. Site and kind of station. R. S. c. 51, § 62. Said commission 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.

63 Me. 284.

Sec. 61. Proceedings, if company refuses. R. S. c. 51, § 63. If said corporation refuses or neglects to comply with the order of said commission, within the time prescribed therein, they shall enforce a compliance as provided in section fifty-three.

63 Me. 284.

Sec. 62. Costs of hearing to be paid by losing party. R. S. c. 51, § 64. In all cases heard before the commission under the three preceding sections, the expenses and cost attending the same 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 and costs 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 commission to any justice of the supreme judicial court, such justice may cause execution to issue therefor.

Crossings Regulated.

Sec. 63. Crossings of highways and streets, how made. R. S. c. 51, § 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 public utilities commission 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 thirty of chapter twenty-four. 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.

See c. 58, § 26; 45 Me. 563; 49 Me. 11, 121, 156; 51 Me. 315; 57 Me. 134; 58 Me. 47; 65 Me. 292; 77 Me. 602; 78 Me. 67; 87 Me. 249; 105 Me. 533.

Sec. 64. Ways may be raised or lowered, or course altered, on application to public utilities commission. R. S. c. 51, § 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 public utilities commission, and proceedings as provided by section thirty of chapter twenty-four; and for such purposes land may be taken and damages awarded as provided for laying out highways and other ways. The commission 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.

See c. 58, § 26; 38 Me. 30; 49 Me. 121, 157; 87 Me. 253.

Sec. 65. Neglect subjects to damages. R. S. c. 51, § 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.

See c. 58, § 26; 49 Me. 126; 51 Me. 315; 67 Me. 357.

Sec. 66. Railroad may be carried over or under a canal or railroad; bridges and abutments to be kept in repair; proceedings when bridge or crossing is unsafe; proceedings in case of further neglect. R. S. c. 51, § 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 sixty-three of chapter twenty-four, 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 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.

See c. 58, § 26; 97 Me. 155.

Sec. 67. Railroad company may establish temporary crossings for lumbering operations. 1909, c. 22, § 1. A railroad company may, for the purpose of accommodating lumbering operations, establish and maintain temporary crossings of any railroad operated by it, by agreement with any person who may request such crossing for lumbering purposes; and upon petition, the public utilities commission, after notice and hearing, may direct

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any railroad company to establish and maintain such temporary crossings at such places on its line of road as said commission shall deem expedient, and thereupon said railroad company shall establish such crossing and maintain the same in accordance with the provisions of this section and the three following sections.

See c. 58, § 26.

Sec. 68. Crossing signs shall be placed on each side of the track; whistle and bell shall be sounded. 1909, c. 22, §§ 2, 3. At every temporary crossing, established in accordance with the preceding section, boards with the words, "Temporary railroad crossing, stop, look, listen," distinctly painted thereon, on each side in letters plainly legible, shall be placed on each side line of the railroad right of way at such crossing, on a post or other structure, in such position as to be easily seen by persons about to cross the railroad at such places. For any such crossing, so established, engine bells shall be rung and engine whistles sounded, as provided in section seventy-two.

See c. 58, § 26.

Sec. 69. Precautions at such crossings. 1909, c. 22, § 4. No team shall be driven over any such crossing unless such team shall first be stopped at the line of the railroad right of way and the driver thereof shall look and listen, and such driver or some other person for him shall go upon such crossing, ahead of such team, and be satisfied that such team may safely be driven over such crossing. Nothing in this section shall prevent the public utilities commission from making such further regulations for safety at any such crossing established under their direction, as they may deem expedient or necessary.

See c. 58, § 26.

Sec. 70. Crossings to be kept open part of year; expense may be apportioned. 1909, c. 22, § 5. Each such crossing shall be kept open only during such time each year as the parties interested therein may agree upon, or as the public utilities commission may specify in cases where the commission directs such crossings to be established. When the public utilities commission shall direct any such temporary crossing to be established, they shall determine who shall bear the expense of establishing and maintaining such crossing, and they may, if they see fit, apportion such expense between the railroad company and the person or persons who shall have petitioned for such crossing; provided that the expense of the crossing signs and the planking between the rails shall, however, in any event be borne by the railroad company.

See c. 58, § 26.

Sec. 71. Company shall erect and maintain bridge-guards; penalty for refusal, neglect or injury. R. S. c. 51, § 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 public utilities commission, 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.

See c. 58, § 26.

Sec. 72. Sign-boards to be maintained at grade crossings; bell on engine and when to be rung; public utilities commission may require whistle or sounding of bell for warning. R. S. c. 51, § 70. 1905, c. 94. Every railroad corporation shall cause sign-boards with the words "Railroad crossing" distinctly painted on each side thereof in letters plainly legible, to be placed and constantly maintained at the side of highways and town ways where they are crossed at grade by such railroads, on posts or other structures, in such position as to be easily seen by persons passing upon such ways; and every such corporation shall cause a steam whistle, and a bell of at least thirty-five pounds in weight to be placed on each locomotive used upon its railroad, and such whistles, or in cities and villages, such bell, shall be sounded as a warning at a distance of one hundred rods on standard gauge railroads and a distance of seventy-five rods on narrow gauge railroads from all crossings of such ways on the same level; and such bell shall be rung at a distance of eighty-five rods on standard gauge railroads and sixty rods on narrow gauge railroads, from such grade crossings, and be kept ringing until the engine has passed the same; provided, however, that upon petition of ten or more legal voters of the state, after notice to the railroad corporation and a public hearing, the public utilities commission may in writing order such corporation to give additional warning to travelers upon such ways by requiring the sounding of such whistles or the ringing of such bells at other places where said railroads cross such public ways other than at grade or run contiguous thereto, and such orders shall have the same force, and place the same obligations upon railroad corporations as when required under the provisions of this section.

See c. 58, § 26; 55 Me. 441; 57 Me. 134; 67 Me. 105; 97 Me. 161; 113 Me. 271.

Sec. 73. Town officers may request company to provide gates at railroad crossings; application to public utilities commission in case of refusal. R. S. c. 51, § 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 public utilities commission 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.

See c. 58, § 26; 88 Me. 225; 89 Me. 563; 111 Me. 183.

Sec. 74. Penalty for neglect of two preceding sections, and liability to action for damages. R. S. c. 51, § 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

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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.

See c. 58, § 26; 57 Me. 134.

Sec. 75. Public utilities commission may determine manner in which railroads shall cross each other; application, notice and hearing. R. S. c. 51, § 73. The public utilities commission 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 commission for a change in the then existing condition, construction or manner of any such crossing. Such application shall be in writing, giving the location of the crossing, and said commission 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 the commission shall deem proper. The public utilities commission 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 commission may order.

89 Me. 334, 563; 98 Me. 80.

Sec. 76. Crossing over railroad already built, shall be made as ordered by commission; application, notice and hearing. R. S. c. 51, § 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 public utilities commission, the expense thereof to be borne as the commission may order. The parties contemplating making such crossing shall apply to the commission in writing, giving the location of the crossing desired, and said commission 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 public utilities commission shall determine the manner and conditions of construction and maintenance of such crossing and make their report as hereinafter provided.

89 Me. 334; 98 Me. 80.

Sec. 77. Bridges erected by municipalities shall be maintained as commission may determine after hearing. R. S. c. 51, § 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 public utilities commission may determine. The commission 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. The public utilities commission 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 commission just and fair, and shall make their report as hereinafter provided.

See c. 58, § 7; 98 Me. 80; 105 Me. 430, 109 Me. 295.

Sec. 78. Commission shall make report of decisions, and send copies to parties interested. R. S. c. 51, § 76. 1915, c. 347, § 10. The public utilities commission 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.

89 Me. 334.

Note. Duties of railroad companies in the prevention of forest fires, c. 8, §§ 48-50. Ways may not be located over land of railroad company without notice to company, c. 24, § 29.

Public utilities commission to determine whether crossing shall be at grade or not, c. 24, § 30; whether way shall be laid out across land used for station purposes, c. 24, § 32; whether grade crossing shall be abolished, c. 24, §§ 34-36.

Railroad companies may be notified and take upon themselves defense of action for damages at crossing, c. 24, § 96.

State highway commission may cause removal of trees, bushes and other encroachments obstructing view at crossing, c. 24, § 111.

CHAPTER 57.

The Management and Operation of Steam Railroads.

- Sections 1-8 Regulation of Fares and Tolls.
- Sections 9-10 Police Regulations at Stations.
- Sections 11-21 Transportation Regulated.
- Sections 22-25 Fences and Trespasses on Adjoining Lands.
- Sections 26-27 Judgments against Road leased by Foreign Corporation.
- Sections 28-35 Shares, Coupons and Mortgages.
- Sections 36-49 Foreclosure and Redemption of Mortgages.
- Sections 50-59 Rights of Purchaser under Sale.
- Sections 60-87 Provisions for Safety.
- Sections 88-91 Railroad Equipment.

Regulation of Fares and Tolls.

Sec. 1. Railroad companies may establish fares and tolls, subject to revision and alteration. R. S. c. 52, § 1. 1915, c. 347, § 11. 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.

53 Me. 282; 86 Me. 276.