

MAINE STATE LEGISLATURE

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SIXTH REVISION

THE
REVISED STATUTES

OF THE

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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.

CHAP. 57

Sec. 2. Rights of ticket-holders. R. S. c. 52, § 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.

60 Me. 519; 67 Me. 165; 72 Me. 389; 84 Me. 286; 101 Me. 488.

Sec. 3. Railroad tickets; cancelation and exchange. R. S. c. 52, § 3. The preceding section shall not prevent railroad corporations from establishing necessary rules and regulations for the cancelation 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 check given in exchange for the unused portion of a partially used ticket, continues in force for the full term of the original ticket, as provided in said section.

Sec. 4. Sale of limited tickets, regulated. R. S. c. 52, § 4. No person other than a duly authorized agent of the railroad company issuing the same shall sell, offer for sale, or loan any railroad ticket limited to the use of a person or persons thereon specified at the time of its issuance by the railroad company, under a penalty of not less than ten, nor more than one hundred dollars for each offense, to be recovered on complaint.

Sec. 5. Use of such tickets restricted to persons specified. R. S. c. 52, § 5. No person, other than one specified on any railroad ticket, limited to the use of a person or persons specified thereon at the time of its issuance by the railroad company, shall offer for passage or in payment for transportation on any railroad, any such railroad ticket limited as aforesaid, under a penalty of not less than one, nor more than ten dollars for each offense, to be recovered on complaint.

Sec. 6. Mileage books shall be transferable. 1909, c. 37. All mileage coupon books issued by any railroad company shall be issued without any names written thereon or therein, limiting the use of said book, or coupons therefrom, to the persons so specified, but such books shall be absolutely transferable.

Sec. 7. Issue of mileage books regulated. 1915, c. 1. All railroad corporations or companies doing business in this state and conveying passengers over any road or roads owned or operated by any motive power, whether owned or operated by them in their own or other names, under lease or otherwise, which now, or hereafter may issue a mileage ticket of one thousand one-mile coupons for the use of the traveling public and keep the same on sale at their regular passenger stations, shall also issue a mileage ticket of five hundred one-mile coupons, and sell the same at all stations where the one-thousand-mile ticket is now or hereafter may be sold, at the same rate per mile as the one-thousand-mile ticket may be sold. The holder of any such mileage ticket shall be entitled to travel by any regular passenger-train over the road issuing the same and all lines of railroad owned, operated or leased by it, as many miles as there are coupons contained in

such ticket; provided, however, that the minimum mileage to be detached shall be regulated by the printed contract contained in such ticket.

Sec. 8. Penalty for evading payment of fare, or riding on freight-train. R. S. c. 52, § 7. 1907, c. 134. 1911, c. 141. No person is entitled to transportation over a steam railroad, street railroad, or upon any steamboat or ferry who does not on demand first pay the established fare. Whoever while being transported over any steam railroad, street railroad, steamboat or ferry, wilfully refuses on demand to pay the established fare, and whoever fraudulently evades payment of the established fare by giving a false answer, or by traveling beyond the place to which he has paid, or by leaving a train, street railroad car, steamboat or ferry without paying the established fare, whether said fare is demanded or not, or whoever without right or authority rides in or upon any freight-train, forfeits not less than five, nor more than twenty dollars, to be recovered on complaint.

See c. 58, § 24; 53 Me. 282; 92 Me. 406; 112 Me. 179.

Police Regulations at Stations.

Sec. 9. Loitering in any railroad-car of steamboat station or grounds, forbidden. R. S. c. 52, § 8. No person shall loiter or remain, without right, within any car, or station-house of a railroad corporation or steamboat, or upon the platform or grounds adjoining such station, after being requested to leave the same by any railroad officer, or officer or agent of such steamboat. Whoever violates this section forfeits not less than two, nor more than ten dollars, to be recovered on complaint.

See c. 58, § 24.

Sec. 10. Copies of law to be posted. R. S. c. 52, § 9. The officers of all railroad corporations and steamboat companies, shall cause a copy of the preceding section to be posted in a conspicuous place at the several stations along the line of their roads and route of their steamboats.

See c. 58, § 24.

Transportation Regulated.

Sec. 11. Intersecting roads. R. S. c. 52, § 10. 1905, c. 63. Railroads intersecting or crossing each other, shall be deemed, for all business purposes, connecting roads.

Sec. 12. Trains due at same hour at crossing must wait and give time to change baggage. R. S. c. 52, § 11. When railroads cross each other and passenger-trains are due at the crossing at the same hour, the train first arriving shall wait for the arrival of the other, if it comes within twenty minutes; and each shall afford suitable opportunity for passengers desiring to change with their baggage from one train to the other; and the superintendent, conductor and engineer of the road violating this provision forfeits to the state for each offense, not less than ten, nor more than fifty dollars, to be recovered on complaint or by indictment.

47 Me. 200.

Sec. 13. Railroads to furnish equal facilities to all expresses. R. S. c. 52, § 17. Every railroad operating in the state shall furnish reasonable and equal facilities and accommodations to all persons engaged in express business for transportation of themselves, agents, servants, merchandise and other property; for the use of their stations, buildings and grounds, and for

CHAP. 57

exchanges at points of junction with other roads, under a penalty not exceeding five hundred dollars, to be recovered by indictment; and are liable to the aggrieved party in an action on the case for damages.

57 Me. 197; 81 Me. 94; 113 Me. 172.

Sec. 14. Prohibition against change of location of railroad tracks, or refusal to operate road. R. S. c. 52, § 18. No railroad having established its business upon a line shall substantially deviate from the track as originally built without the consent of the legislature or the public utilities commission, and no railroad having established its business as aforesaid, shall cease to run its trains and operate its road, so long as said railroad company pays dividends to its stockholders from its earnings; but this section does not permit any railroad company to cease operating its road or running its trains.

Sec. 15. Order of notice to be served on railroad corporations neglecting to run trains; proceedings at hearing; appointment of receivers. R. S. c. 52, § 19. Whenever any railroad corporation, after commencing to receive tolls, neglects or refuses regularly to run trains upon and to operate its road for the transportation of passengers and freight for sixty days at any one time, the public utilities commission, or any ten citizens residing in any county through which said railroad extends, may petition the supreme judicial court in any county through which such railroad extends, setting forth therein such neglect and refusal so to run trains and operate its road; which petition, before entry in court, may be presented to any justice thereof in term time or vacation, who shall order not less than fourteen days' notice thereon to be served on such corporation. The petitioners shall give written notice to the attorney-general or the county attorney of the county in which said petition is filed, of the filing thereof, one of whom shall appear and take charge of proceedings in court. The court shall appoint a hearing, and at or after said hearing, if the allegations in such petition are found to be true, and if in its opinion public necessity and convenience require it, the court shall appoint some suitable person or persons or some other railroad corporation, a receiver or receivers, to take possession and control of said railroad, together with all corporation property belonging thereto, and shall require such receivers to give bond to said corporation in a reasonable sum, with sureties satisfactory to the court, for the faithful discharge of their trust, and shall also determine their compensation.

Sec. 16. Notice of appointment of receivers; their duties and authority. R. S. c. 52, § 20. Such receivers immediately after giving the required bond shall give notice of their appointment by publishing the same three weeks successively in one newspaper printed in each county through which said road extends, and shall immediately take possession and control of said railroad, and all its rolling-stock, and stations, together with all appendages belonging to the same and necessary for the convenient use thereof, and shall diligently proceed to repair and refurnish said railroad, its rolling-stock and other appendages, and operate the same for the accommodation of the public. Said receivers have the same authority to demand and receive tolls and otherwise manage said railroad, and are subject to the same restrictions as are conferred and enjoined by the charter of said railroad upon its original corporators, and as may be provided by law.

Sec. 17. Receivers, authorized to raise money by loan, to repair railroad; lien for payment of loan. R. S. c. 52, § 21. If said railroad, its track, bridges, rolling-stock, and other appendages, shall be found to be too much out of repair, or its rolling-stock and other appendages insufficient in amount to admit of safely or successfully operating the same, and the earnings are not sufficient to repair said railroad, its track, bridges, rolling-stock, and other appendages, or to rebuild or refurnish the same, said receivers may raise, by loan, a sufficient sum of money, not exceeding five thousand dollars a mile, so to repair, rebuild or refurnish said railroad, its tracks, bridges, rolling-stock and other appendages, said loan to bear a reasonable rate of interest, not exceeding eight per cent a year, payable semi-annually, and the principal payable within twenty years. A lien is created on the franchise and all the property, real and personal, road, road-bed, track, stations, buildings, and equipment, pertaining to and constituting said railroad, for the payment of the principal and interest thereof. Said loan, secured by such lien, takes precedence of all mortgages, bonds, stock, or other title or claim of indebtedness of any kind whatsoever, then existing or thereafter created on said railroad.

Sec. 18. Railroad to be restored to corporation, on certain conditions. R. S. c. 52, § 22. Any justice of the supreme judicial court sitting in the county where the original petition was filed, on petition of said railroad corporation or its owners, and after reasonable notice to such receivers, may revoke their authority and restore the possession and control of said railroad to said corporation or its owners, upon their paying the principal and interest of the aforesaid loan then existing, together with the sum due said receivers for their personal services, with all the expenses incurred in operating and repairing said railroad and its appendages during their continuance in their said capacity, over and above the earnings thereof; provided, however, that said railroad corporation or its owners give bond to the state in such sum as the court orders, with sureties satisfactory to the court, conditioned that said corporation or its owners thus seeking to receive possession shall operate and keep in repair said railroad, its rolling-stock, and other appendages to the satisfaction of the public utilities commission, for five years following said order.

Sec. 19. Public utilities commission may decide amount due receivers. R. S. c. 52, § 23. If said receivers and said railroad corporation or owners are unable to agree upon the amount due said receivers from said corporation or its owners, the question shall be referred by order of court to the determination of the public utilities commission, whose decision made to said court and accepted shall be final in the premises, and in no case shall said corporation or its owners receive possession and control of said railroad until said receivers are paid or tendered the full amount due them, as aforesaid, except by their written consent.

Sec. 20. Vacancies in office of receivers, how filled. R. S. c. 52, § 24. The court may fill all vacancies in said office of receiver, and at the time of appointing said receivers or at any subsequent time during their continuing in said capacity, may issue all orders or decrees necessary to aid them in the full and faithful discharge of their said trust, and cause the same to be promptly enforced.

CHAP. 57

Sec. 21. Questions of law, how determined. R. S. c. 52, § 25. Questions of law arising under the provisions of the six preceding sections shall, on motion of either party, be at once certified by the presiding justice and transmitted to the chief justice, be argued in writing by both sides within thirty days thereafter, be considered and decided by the justices of said court as soon as may be, and the decision thereon shall be certified to the clerk of courts of the county where the case is pending, and judgment made up as of the term next preceding the time of receiving the certificate.

Fences and Trespasses on Adjoining Lands.

Sec. 22. Fences, how and where made; liability for injuries. R. S. c. 52, § 26. Where a railroad passes through enclosed or improved land, or wood-lots belonging to a farm, legal and sufficient fences shall be made on each side of the land taken therefor, before the construction of the road is commenced, and such fences shall be maintained and kept in good repair by the corporation. For any neglect of such duty during the construction of the road, and for injuries thereby occasioned by its servants, agents or contractors, the directors are jointly and severally personally liable. For any subsequent neglect, the corporation shall be fined a sum sufficient to make or repair the fence, to be recovered by indictment and expended by an agent appointed by the court therefor.

See c. 58, § 24; 29 Me. 308; 39 Me. 276; 46 Me. 166; 59 Me. 534; 60 Me. 243; 63 Me. 309; 65 Me. 338; 82 Me. 124; 87 Me. 306, 327; 98 Me. 512; 100 Me. 407; 105 Me. 530.

Sec. 23. Line fences to be built on notice of abutter. R. S. c. 52, § 27. The owner of any enclosed or improved land or wood-lot belonging to a farm abutting upon any railroad which is finished and in operation, may at any time between the twentieth day of April and the end of October, give written notice to the president, treasurer, or either of the directors of the corporation owning, controlling or operating such railroad, that the line fence against his land has not been built, or if built, that the same is defective and needs repair. And if said corporation neglects to build or repair such fence, for thirty days after receiving such notice, it forfeits to such owner one hundred dollars, to be recovered in an action on the case.

See c. 58, § 24; 39 Me. 276; 60 Me. 244; 82 Me. 124; 98 Me. 511.

Sec. 24. Injuring fences or turning animals into railroad enclosure. R. S. c. 52, § 28. Whoever takes down or intentionally injures any fence, erected to protect the line of any railroad, or turns any horse, cattle or other animal, upon or within the enclosure of such railroad, shall be fined not less than ten, nor more than one hundred dollars, or imprisoned not less than ten days nor more than six months.

See c. 58, § 24.

Sec. 25. Company liable for trespasses on adjoining land. R. S. c. 52, § 29. The corporation is liable for trespasses and injuries to lands and buildings adjoining or in the vicinity of its road, committed by a person in its employment, or occasioned by its order, if the party injured within sixty days thereafter, gives notice thereof to the corporation; but its liability does not extend to acts of wilful and malicious trespass. The person committing a trespass is also liable.

See c. 58, § 24; 59 Me. 534; 62 Me. 438.

Judgments Against Road Leased by Foreign Corporation.

Sec. 26. Judgment for damages collected of foreign railroad company leasing railroad. R. S. c. 52, § 34. When any foreign railroad company which is or has been doing business in this state, as the lessee of any railroad, refuses or neglects for sixty days after demand, to pay and discharge any judgment recovered by any person against the company owning such leased road for damages to the property of such person by the doings, misdoings or neglects of such foreign company, its agents or servants, which judgment belongs in equity to such foreign company to pay and discharge, the supreme judicial court, on petition, may compel payment thereof by such foreign corporation, and make, pass and enforce all necessary orders, decrees and processes for the purpose.

Sec. 27. Judgment creditor may have remedy against lessors. R. S. c. 52, § 35. When any such judgment is recovered, and such foreign company neglects, for sixty days, to satisfy it, the judgment creditor may have an action on the case against such foreign company for the recovery of the amount of such judgment, with interest and costs.

Shares, Coupons and Mortgages.

Sec. 28. Shares, how transferred. R. S. c. 52, § 31. Shares in the capital of such corporations are personal estate, and may be transferred in the same manner and with the same rights as shares in other corporations are transferred.

See c. 58, § 24; see c. 51, § 36.

Sec. 29. Rights of holders of coupons. R. S. c. 52, § 33. When coupons for interest issued with bonds, are, for a valuable consideration, detached and assigned by delivery, the assignee may maintain assumpsit upon them in his own name against the corporation engaging to pay them.

See c. 58, § 24; 49 Me. 516; 103 Me. 278.

Sec. 30. Trustees of railroads; vacancies, filled by election; supreme judicial court may affirm elections and enforce decrees. R. S. c. 52, § 36. When a railroad corporation mortgages its franchise for the payment of its bonds or coupons, and trustees are appointed by such corporation, by special law, or by the mortgage, the bondholders, at a regular meeting called for the purpose and notified as hereinafter provided, may, from time to time, elect by ballot new trustees to fill vacancies, when no other method for filling vacancies is specifically provided in the appointment, special law or mortgage. Any party interested may present the proceedings of such meeting to the supreme judicial court, or to a justice thereof in vacation, who shall appoint a time of hearing, and order such notice to parties interested as he deems proper, and may affirm such elections, and make and enforce any decrees necessary for the transfer of the trust property, to the new trustees. Such decrees shall be filed with the clerk of the court where the hearing is had, and be recorded by him.

50 Me. 561; 69 Me. 398; 72 Me. 74; 74 Me. 425; 85 Me. 88.

Sec. 31. What constitutes a breach of mortgage; trustees to call meeting of bondholders. R. S. c. 52, § 37. The neglect of the corporation to pay any overdue bonds or coupons secured by such mortgage, for ninety days

CHAP. 57

after presentment and demand on the treasurer or president thereof, is a breach of the conditions of the mortgage; and thereupon the trustees shall call a meeting of the bondholders, by publishing the time and place thereof for three weeks successively in the state paper, and in some paper in the county where the road lies, the last publication to be one week at least before the time of the meeting.

50 Me. 561; 52 Me. 99; 85 Me. 88.

Sec. 32. Bondholders have one vote for every \$100 of bonds. R. S. c. 52, § 38. At such meeting and all others, each bondholder present shall have one vote for each hundred dollars of bonds held by him or represented by proxy; and they may organize by the choice of a moderator and clerk, and determine whether the trustees shall take possession of such road, and manage and operate it in their behalf.

Sec. 33. Trustees taking possession, have powers of corporation. R. S. c. 52, § 39. If they so determine, the trustees shall take possession of such road and all other property covered by the mortgage, and have all the rights and powers, and be subject to all the obligations of the directors and corporation of such road, and may also prosecute and defend suits in their own name as trustees.

55 Me. 406; 74 Me. 427.

Sec. 34. Trustees to keep account of receipts and expenditures; trustees not liable; when to surrender road. R. S. c. 52, § 40. They shall keep an accurate account of the receipts and expenditures of such road, and exhibit it, on request, to any officer of the corporation, or other person interested. They shall, from the receipts, keep the road, buildings and equipment in repair, furnish such new rolling-stock as is necessary, and the balance, after paying running expenses, shall be applied to the payment of any damages arising from misfeasance in the management of the road, and after that according to the rights of parties under the mortgage. They are not personally liable except for malfeasance or fraud. When all overdue bonds and coupons secured by the mortgage are paid, they shall surrender the road and other property to the parties entitled thereto.

See c. 82, § 6, ¶ vi; 59 Me. 48; 76 Me. 274.

Sec. 35. Trustees to call meetings of bondholders, and report; bondholders may fix their compensation, and give instructions. R. S. c. 52, § 41. They shall annually, and at other times on written request of one-fifth of the bondholders in amount, call a meeting of the bondholders in the manner prescribed in the by-laws of the corporation for calling a meeting of stockholders, and report to them the state of the property, the receipts, expenses and the application of the funds. At such meeting, the bondholders may fix the compensation of the trustees; instruct them to contract with the directors of the corporation or other competent party, to operate said road while the trustees have the right of possession, if approved by the bondholders at a regular meeting, otherwise not exceeding two years, and to pay them the net earnings thereof; or may give them any other instruction that they deem advisable; and the trustees shall conform thereto, unless inconsistent with the terms of the trust.

74 Me. 426.

Foreclosure and Redemption of Mortgages.

Sec. 36. How and when railroad mortgages may be foreclosed. R. S. c. 52, § 42. The trustees, on application of one-third of the bondholders in amount, to have such mortgage foreclosed, shall immediately give notice thereof, by publishing it three weeks successively in the state paper and in some paper, if any, in each county into which the road extends, therein stating the date and conditions of the mortgage, the claims of the applicants under it, that the conditions thereof have been broken, and that for that reason they claim a foreclosure; and they shall cause a copy of such notice and the name and date of each newspaper containing it, to be recorded in the registry of deeds in every such county, within sixty days from the first publication; and unless, within three years from the first publication, the mortgage is redeemed by the mortgagors or those claiming under them, or a bill in equity as in cases of the redemption of mortgaged lands is commenced, founded on payment or a legal tender of the amount of overdue bonds and coupons, or containing an averment that the complainants are ready and willing to redeem on the rendering of an account, the right of redemption shall be forever foreclosed.

See c. 51, § 73; 50 Me. 561; 54 Me. 184; 59 Me. 20, 47, 69; 66 Me. 491, 507; 88 Me. 90.

Sec. 37. Presentation of overdue bonds and coupons for record. R. S. c. 52, § 43. Each holder of overdue bonds or coupons shall present them to the trustees at least thirty days before the right of redemption expires, to be by them recorded; and such right is not lost by the non-payment of any claims not so presented; and the parties having the right to redeem shall have free access to the record of such claims.

Sec. 38. Foreclosure constitutes holders a corporation, and trustees shall convey to it. R. S. c. 52, § 44. The foreclosure of the mortgage shall inure to the benefit of all the holders of bonds, coupons and other claims secured thereby; and they, their successors and assigns are constituted a corporation, as of the date of the foreclosure, for all the purposes, and with all the rights and powers, duties and obligations of the original corporation by its charter; and the trustees shall convey to such new corporation by deeds all the right, title and interest which they had by the mortgage and the foreclosure thereof, and thereupon they shall be discharged. If they neglect or refuse so to convey, the court, on application in equity, may compel them so to do.

Certificate of organization to be filed, § 57; 59 Me. 70; 66 Me. 507; 74 Me. 426; 88 Me. 90.

Sec. 39. First meeting of new corporation; may adopt new name; may take possession and have the use of mortgaged property. R. S. c. 52, § 45. The new corporation may call its first meeting in the manner provided for calling the first meeting of the original corporation, and may use therefor the old name, or by a notice, signed by one or more of said bondholders, setting forth the time, place and purpose of the meeting, a copy of which is to be published in a newspaper, in the county, if any, otherwise in the state paper, seven days before the meeting; but, at that meeting, it may adopt a new name by which it shall always thereafter be known; and it may take and hold the possession, and have the use of the mortgaged prop-

CHAP. 57

erty, although a bill in equity to redeem is pending, and it may become a party defendant to such bill. This section applies to all corporations mentioned in section fifty-four.

66 Me. 507; 88 Me. 90.

Sec. 40. New corporation may vote to redeem prior mortgage, and make assessments therefor. R. S. c. 52, § 46. If any part of such property or franchise is subject to a prior mortgage, such new corporation, at a legal meeting called for that purpose, may vote to redeem the same, and make an assessment therefor on all holders of stock, certificates for fractions of stock, bonds, or coupons in such corporation in proportion to their amounts. The directors shall immediately assess such sum, and fix a time and place for the payment thereof to the treasurer, who shall publish notice accordingly six weeks successively in some newspaper, if any, in each of the counties where the road extends, the last publication to be two weeks at least before the time fixed for payment.

See § 54; c. 51, § 73; 66 Me. 507.

Sec. 41. Sale of stock for non-payment; delinquent stockholder not entitled to commutation or dividends, until his assessment is paid. R. S. c. 52, § 47. If any person fails to pay his assessment within the time fixed, the treasurer shall sell enough of his stock at auction to pay the same, with twelve per cent interest and the cost of advertising and selling, by first publishing notice of such sale three weeks successively in a newspaper printed in the county where the sale is to be, if any, and if not, in an adjoining county. Thereupon the president and treasurer shall issue a new certificate of stock to the purchaser; and the delinquent stockholder shall surrender his certificate to be canceled, and may have a new one for his unsold shares; and if he held bonds, coupons or certificates for fractions of stock, he shall not be entitled to commute them or to receive any dividends thereon until he has paid his assessment, with twelve per cent interest.

66 Me. 507.

Sec. 42. Application of funds. R. S. c. 52, § 48. The directors shall apply the money realized from such assessments solely to the redemption of such prior mortgage until it is fully paid; and then all the property, rights and interests secured thereby vest in such new corporation.

Sec. 43. Redemption of prior mortgages by junior mortgagees. R. S. c. 52, § 49. When a subsequent mortgage of a railroad, its franchise or any part of its other property, contains no provision for a sale, or contains a conditional provision depending on the application of a majority in amount of the claims secured thereby, and no such application has been made to the trustees, the holder of such mortgage may redeem a prior mortgage on the same property which is under process of foreclosure, at any time before it becomes absolute; and hold it in trust for those who contributed thereto in proportion to the amount paid by each.

See c. 51, § 73; 66 Me. 507.

Sec. 44. Trustees to call a meeting and mortgagees may vote to redeem; contribution. R. S. c. 52, § 50. For such purpose, the trustees of such subsequent mortgage, on application of one or more persons interested therein, made six months prior to the absolute foreclosure of such prior mortgage, and on payment of reasonable expenses to be incurred thereby, shall

call a meeting of all interested and publish a notice thereof, stating the time, place and purpose, three weeks successively in the state paper and such other papers as they think proper. If at such meeting, or one called by the trustees without application, the holders of a majority of the interests there represented vote to redeem the prior mortgage, each one may contribute his proportion thereto. The trustees shall give immediate notice of such vote by publishing it as above, and shall therein state the time and place of payment, and the amount to be paid on each hundred dollars as nearly as may be. If any one fails to pay his proportion, any other person interested in said subsequent mortgage may pay it, and succeed to all his rights except as hereinafter provided.

Sec. 45. Any one interested in subsequent mortgage, may redeem. R. S. c. 52, § 51. If no such meeting is called, or it is voted not to redeem, one or more of the persons interested in such subsequent mortgage, may pay to the trustees thereof the amount required to redeem the prior mortgage; and such trustees shall redeem it accordingly and then hold it in trust for the person so paying.

Sec. 46. Delinquents may afterwards pay their proportion and be restored to their rights; new corporation. R. S. c. 52, § 52. When a prior mortgage has been redeemed in either mode aforesaid, and all persons interested in the subsequent mortgage have not paid their proportions thereof, the trustees shall publish a notice ten weeks successively in the state paper, the first publication not to be until the right of redeeming the prior mortgage would have expired, that delinquents may pay the same to them or their agents, with twelve per cent interest, within one year from the first publication of said notice; and any person so paying has the same rights as if he had paid originally; and those not so paying are barred. Money so paid shall be divided ratably to those who advanced the redemption money; and they may become a new corporation, and new certificates of stock or fractions of stock may be issued in the manner and with the rights, powers and obligations hereinbefore provided.

Sec. 47. Redemption by stockholders of the old corporation. R. S. c. 52, § 53. When a prior mortgage is thus redeemed, any number of the stockholders of the old corporation may redeem it within two years thereafter by paying to the trustees of such subsequent mortgage the amount paid therefor, with ten per cent interest, and also the amount secured by the subsequent mortgage due to those who had contributed to redeem the prior mortgage, after deducting the net earnings of said road or adding the net deficiencies, if operated by the trustees of the subsequent mortgage; and said stockholders may demand of said trustees an accurate account of the receipts and expenditures and amount due on the mortgage, and have the same remedies for a failure as in case of mortgages of real estate. After such redemption, the redeeming stockholders have all the rights of those from whom they redeemed.

54 Me. 185.

Sec. 48. Notice to non-contributors; their rights. R. S. c. 52, § 54. The stockholders redeeming as aforesaid, shall give notice to the stockholders who have not contributed thereto; and the latter shall have the same rights as hereinbefore provided in the case of bondholders.

CHAP. 57

Sec. 49. Extension of time of redemption after foreclosure is commenced. R. S. c. 52, § 55. The persons interested in a prior mortgage on which a foreclosure is commenced, at a meeting called for the purpose, may extend the time of redemption; and thereupon the trustees of such mortgage, by a suitable writing, delivered to the party entitled to redeem, shall extend the time accordingly.

Rights of Purchasers Under a Sale of Railroad and Franchise.

Sec. 50. Purchasers at sale to have rights of original corporation; redemption. R. S. c. 52, § 56. When the franchise of a railroad and its road, wholly or partly constructed, or the right of redeeming the same from a mortgage thereof, are sold by a decree of court, by a power of sale in a mortgage thereof, or on execution, the purchasers have all the rights, powers and obligations of the corporation, under its charter, and may form a new corporation in the manner hereinbefore provided. If the original corporation or those claiming under it have a right to redeem, they may do so in the manner provided for the redemption of mortgaged real estate; but shall pay in addition to the amount of the sale and interest, the reasonable expenditures made by the new corporation in completing, repairing and equipping said road, and in the purchase of necessary property therefor, after deducting the net earnings thereof.

Certificate of organization to be filed, § 57; see c. 51, § 73; 88 Me. 91.

Sec. 51. Succession to rights and obligations of original corporation, subject to alterations by law. R. S. c. 52, § 57. The trustees of bondholders or other parties under contract with them operating a railroad, and all corporations formed in the modes hereinbefore provided, have the same rights, powers and obligations as the old corporation had by its charter and the general laws; but all said rights and privileges are also subject to amendment, alteration or repeal by the legislature, and to all the general laws concerning railroads, notwithstanding anything to the contrary in the original charter.

66 Me. 509.

Sec. 52. Original corporation continues, to close business, and for suits. R. S. c. 52, § 58. The original corporation shall exist, after the foreclosure of the mortgage, for the sole purpose of closing its unsettled business; and the right of action against it or its stockholders is not thereby impaired; but in suits founded on any of the bonds or coupons secured by the mortgage, the proportional actual value of the property taken under the mortgage shall be deducted.

66 Me. 507.

Sec. 53. Supreme judicial court has equity jurisdiction of all disputes; rights at law preserved. R. S. c. 52, § 59. The supreme judicial court, in addition to the jurisdiction specifically conferred by this chapter, has jurisdiction, as in equity, of all other matters in dispute, arising under the preceding sections relating to trustees, mortgages, and the redemption and foreclosure of mortgages; but not to take away any rights or remedies that any party has and may elect to enforce at law; and in all proceedings relating to trustees or to mortgages, their foreclosure and redemption, not

otherwise specifically provided for herein, the law relating to trusts and mortgages of real estate may be applied.

85 Me. 88; 103 Me. 277.

Sec. 54. Preceding sections to apply to mortgages of corporations given to trustees, as if legally foreclosed. R. S. c. 52, § 60. Sections thirty to fifty-three, each inclusive, apply to and include all mortgages of franchises, lands, property, hereditaments and rights of property of every kind whatever, whether heretofore given or hereafter to be given by any corporation to trustees, to secure the payment of scrip or bonds of said corporation, in all cases in which the principal of said scrip or bonds has been due and payable for more than three years, and remains unpaid in whole or in part, or on which no interest has been paid for more than three years, in the same way and to the same extent as if the mortgage had been legally foreclosed, subject to all rights of redemption, as provided in section forty; and the holders of said scrip or bonds shall have the benefit of said sections, and all the rights and powers of the corporation under its charter, and may form a new corporation in the manner provided in this chapter, whenever the holders of such scrip or bonds to an amount exceeding one-half of the same so elect, in writing. And any subsequent foreclosure, in any method provided by law, of the mortgage given to secure such bonds or scrip, shall inure at once for the benefit of such corporation, and vest therein the title acquired by such foreclosure.

Certificate of organization to be filed, § 57; see c. 51, § 73; c. 58, § 24; 171 U. S. 641; 88 Me. 92.

Sec. 55. Holders of unpaid scrip and bonds may foreclose mortgage. R. S. c. 52, § 61. A corporation formed by the holders of such scrip or bonds, or if no such corporation has been formed, the holders of not less than a majority of such scrip or bonds may commence a suit in equity to foreclose such mortgage, and the court may decree a foreclosure thereof, unless the arrears are paid within such time as the court orders.

88 Me. 96.

Sec. 56. Amount of capital stock of new corporation; value of shares; not liable to further assessment. R. S. c. 52, § 62. The capital stock of such new corporation shall be equal to the amount of unpaid bonds and overdue coupons secured by such mortgage, taken at their face at the time of the organization of the new corporation, together with the amount required to redeem any prior mortgage, and shall be divided into shares of one hundred dollars each. All stock issued under the aforesaid provisions shall be taken and considered as paid for in full, and shall not be liable to further assessment; and no person, taking or holding the same, shall by reason thereof be liable for the debts of such corporation.

Sec. 57. Certificate of organization filed with secretary of state; if railroad corporation, filed with public utilities commission. 1909, c. 61, § 2. Whenever a corporation is organized under the provisions of sections thirty-eight, fifty or fifty-four of this chapter, or under any other provision of law by which a return is not specifically required, such corporation shall file with the secretary of state, and, if a railroad corporation, also with the public utilities commission, a certificate signed and sworn to by the president, treasurer and a majority of the directors of such corporation, therein

CHAP. 57

setting forth the name of the corporation and all facts as to such organization which are necessary to give full information in relation thereto; the organization of such corporation shall date from, and it shall have the authority and rights of a corporation only after filing said certificate.

Sec. 58. New corporation may buy right of redemption. R. S. c. 52, § 63. Any corporation, formed under this chapter by the holders of railroad bonds, may acquire, by purchase, the right of redemption under the mortgage securing such bonds.

88 Me. 91.

Sec. 59. When franchise lost, stockholders may maintain suit in equity for dissolution. R. S. c. 52, § 64. Whenever any railroad corporation, by foreclosure of a mortgage or in any other method authorized by law, has finally parted with its franchise to construct, operate and maintain the railroad described in its charter, any stockholder may maintain a suit in equity in the supreme judicial court for the winding up of the affairs and dissolution of such corporation. In such case the court shall order such notice to all parties interested as it may deem proper and proceed according to the usual course of suits in equity. But no trustee shall be appointed, except upon motion of some party to the proceedings and then only in the discretion of the court.

Provisions for Safety.

Sec. 60. Number of brakemen. R. S. c. 52, § 70. No train of passenger-cars, moved by steam, shall be run without one trusty and skilful brakeman to every two cars.

101 Me. 469.

Sec. 61. Danger signals, where disconnected cars are left on track. R. S. c. 52, § 71. No car disconnected from a train, shall be left or permitted to remain standing on the main track of any railroad, unless accompanied by danger signals, such as flagging by day and lanterns by night, placed at such distances from such obstruction, on the main line of the road, as will insure safety to and from moving trains, and such signals shall be in charge of and constantly attended by employees of the corporation owning or operating the road.

Sec. 62. Penalty for violation of § 61. R. S. c. 52, § 72. A railroad corporation violating any provision of the preceding section, forfeits for each offense, one hundred dollars to the state; to be recovered in an action on the case, or by complaint and indictment; and the attorney-general shall prosecute therefor. Said section does not apply to street railroads.

Sec. 63. Railroad liable for damages by fire from locomotives; entitled to benefit of any insurance. R. S. c. 52, § 73. When a building or other property is injured by fire communicated by a locomotive engine the corporation using it is responsible for such injury, and it has an insurable interest in the property along the route, for which it is responsible, and may procure insurance thereon. But such corporation shall be entitled to the benefit of any insurance upon such property effected by the owner thereof less the premium and expense of recovery. The insurance shall be deducted from the damages, if recovered before the damages are assessed, or, if not, the policy shall be assigned to such corporation, which may main-

tain an action thereon, or prosecute, at its own expense, any action already commenced by the insured, in either case with all the rights which the insured originally had.

165 U. S. 13; 37 Me. 94; 42 Me. 583; 46 Me. 114; 47 Me. 524; 58 Me. 85; 60 Me. 300; 63 Me. 296; 74 Me. 424; 76 Me. 274; 78 Me. 417, 480; 85 Me. 505; 86 Me. 422; 87 Me. 412; 90 Me. 156; 91 Me. 95; 93 Me. 58; 94 Me. 173; 99 Me. 198; 106 Me. 443; 111 Me. 150; 112 Me. 82, 351, 515; 113 Me. 130.

Sec. 64. Intoxication of train officer, engineer or switchman, punished. R. S. c. 52, § 74. Whoever, having charge of a locomotive engine, or acting as conductor, brakeman, motorman or switchman, is intoxicated while employed on a railroad, shall be fined not exceeding one hundred dollars, or imprisoned not exceeding six months.

See c. 58, § 24.

Sec. 65. Negligence of employee, punished. R. S. c. 52, § 75. Any person employed in conducting trains who is guilty of negligence or carelessness causing an injury, shall be punished by imprisonment in jail not exceeding one year, or by fine not exceeding one thousand dollars; but the corporation employing him is not thereby exempt from responsibility.

See c. 58, § 24; 43 Me. 270; 57 Me. 218; 63 Me. 70.

Sec. 66. No liability for death of person walking on road. R. S. c. 52, § 76. No railroad corporation shall be liable for the death of a person walking or being on its road contrary to law, or to its valid rules and regulations.

Sec. 67. Forfeiture for standing or walking on track or bridge; for entering upon track with team. R. S. c. 52, § 77. Whoever without right, stands or walks on a railroad track or bridge, or passes over such bridge except by railroad conveyance, forfeits not less than five, nor more than twenty dollars, to be recovered by complaint; and whoever, without right, enters upon any railroad track with any team, or any vehicle however propelled, or drives any team or propels any vehicle upon any railroad track, shall be punished by fine of not less than fifty dollars, or by imprisonment not less than thirty days.

100 Me. 569.

Sec. 68. Printed copy of preceding section to be posted. R. S. c. 52, § 78. A printed copy of the preceding section shall be kept posted in a conspicuous place in every railroad passenger station; for neglect thereof, the corporation forfeits not exceeding one hundred dollars for every offense.

Sec. 69. Punishment for stranger getting upon or leaving train when in motion; liability of corporation not affected. R. S. c. 52, § 79. Any person, other than a servant or employee of the road, or a passenger holding a ticket for a passage over the same, or mail agent or expressman, who gets upon or leaves any steam-engine, tender or car at any place outside of a railroad station, while such engine, tender or car is in motion, shall be imprisoned not exceeding thirty days, or fined not exceeding ten dollars; but this provision does not affect the liability of any railroad corporation for injuries or damages caused by the fault or negligence of the corporation or its servants.

Sec. 70. Penalty for disorderly conduct on any public conveyance. R. S. c. 52, § 80. 1913, c. 42, § 1. Whoever behaves in a disorderly or riotous manner or drinks intoxicating liquors as a beverage, while on any train

CHAP. 57

of railroad-cars, street railroad-car, steamboat or ferry, or uses indecent or profane language in such car, steamboat or ferry, is guilty of a breach of the peace and shall be fined not less than five, nor more than five hundred dollars, or imprisoned in jail not less than thirty days nor more than one year, in addition to any other penalty provided by law.

87 Me. 393.

Sec. 71. Officer in charge may refuse to permit such person to enter; may eject such offender; may call for assistance; may arrest and hold such offender. R. S. c. 52, § 81. 1913, c. 42, § 2. The conductor of a train of cars on any railroad or of a street railroad-car, or the officer in charge of any steamboat or ferry, shall have the right to refuse to permit any person not in the custody of an officer, to enter any passenger-car on his train, or street-car in his charge, or steamboat or ferry in his charge, who shall be in a state of intoxication; and shall have the further right to eject from his train at any station or from his street-car, steamboat or ferry at any regular stop any person found in a state of intoxication or drinking intoxicating liquors as a beverage on any passenger-car of his train, or any street-car under his charge, or any steamboat or ferry under his charge, and for that purpose may call to his aid any employee of the railroad, street-car, steamboat or ferry company, and may arrest and temporarily hold any person guilty of any breach of the peace mentioned in section seventy of this chapter until a warrant can be obtained or he can be placed in the custody of the proper officers of the law.

Sec. 72. Size and construction of caboose-cars regulated. 1913, c. 185, § 2. Except as otherwise provided in the following section, no common carrier by railroad shall use on its lines any caboose-car, or other car used for like purposes, unless such caboose or other car shall be, at least, twenty-nine feet in length, exclusive of platforms, and equipped with two four-wheel trucks, and shall be of constructive strength equal, at least, to that of the twenty-ton capacity freight-cars constructed according to master car-builder standards, and shall be provided with a door in each end thereof and an outside platform across each end of said car; each platform shall be not less than twenty-four inches in width, and shall be equipped with proper guard-rails, and with grab-irons and steps for the safety of persons getting on and off said car; the steps shall be equipped with a suitable rod, board or other guard at each end and at the back thereof, properly designed to prevent slipping from said step. Caboose-cars shall be of standard height, with cupola, and necessary closets and windows.

113 Me. 270.

Sec. 73. Persons and corporations to whom § 72 applies. 1913, c. 185, §§ 1, 3. The provisions of the preceding section shall apply to any corporation, or to any person or persons, while engaged as common carriers in the transportation by standard gauge railroad of passengers or property within this state to which the regulative power of this state extends. Provided, however, that said provisions shall not apply to any railroad company operating less than twenty miles of single track, nor to caboose-cars used by the Maine Central Railroad Company on the following parts of its lines, namely; between Waterville and Skowhegan; between Pittsfield and Hartland; between Burnham and Belfast; between Leeds Junction and

Farmington; between Bangor and Bucksport; between Calais and Princeton; between Livermore Falls and Canton, and between Lewiston lower station and Bath, via Brunswick.

Sec. 74. Penalty for violation. 1913, c. 185, § 5. Any common carrier who violates section seventy-two shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine of not less than one hundred, nor more than five hundred dollars for each offense, to be enforced on complaint or by indictment.

Sec. 75. Frogs and guard-rails to be blocked for protection of employees. R. S. c. 52, § 82. Every railroad corporation operating a railroad or part of a railroad in the state, shall adjust, fill or block the frogs and guard-rails on its track, with the exception of guard-rails on bridges, in a manner satisfactory to the public utilities commission, so as to prevent the feet of the employees from being caught therein. Any railroad corporation failing so to do, shall be punished by a fine of not less than one hundred, nor more than five hundred dollars.

93 Me. 80.

Sec. 76. Method of heating cars shall be approved by public utilities commission. R. S. c. 52, § 83. No passenger, mail or baggage-car on any railroad in the state shall be heated by any method of heating or by any furnace or heater, unless such method or the use of such furnace or heater shall first have been approved in writing by the public utilities commission; provided, however, that in no event shall a common stove be allowed in any such car; and provided also, that any railroad corporation may, with the permission of said board, make such experiments in heating their passenger-cars as said board may deem proper.

Sec. 77. Lighting by naphtha, prohibited. R. S. c. 52, § 84. No passenger-car on a railroad shall be lighted by naphtha, nor by an illuminating-oil or fluid made in part of naphtha, or which will ignite at a temperature of less than three hundred degrees Fahrenheit.

Sec. 78. Penalty for violation. R. S. c. 52, § 85. Any railroad corporation violating any provision of the two preceding sections forfeits not exceeding five hundred dollars.

Sec. 79. Highways, how to be passed. R. S. c. 52, § 86. No engine or train shall be run across a highway near the compact part of a town at a speed greater than six miles an hour, unless the parties operating the railroad maintain a flagman, or a gate or automatic signals ordered or approved by the public utilities commission, at the crossing of such highway. And no way shall be unreasonably and negligently obstructed by engines, tenders or cars. The corporation forfeits not exceeding one hundred dollars for every such offense.

59 Me. 190; 80 Me. 430; 81 Me. 267; 87 Me. 547; 101 Me. 478; 106 Me. 301.

Sec. 80. Safety switches and switch lights at every siding. R. S. c. 52, § 87. Every railroad company running express trains in this state, shall place safety switches of an approved sort at every siding connecting with the main track; switch lights shall also be maintained throughout that portion of every railroad where trains are run after dark.

Sec. 81. Penalty for changing switch or lights. R. S. c. 52, § 88. Whoever, without authority, shall alter, change, or in any manner interfere with

CHAP. 57

any safety switch or switch lights on any railroad, shall be liable to a fine of not less than one hundred dollars, or imprisonment for not less than sixty days.

Sec. 82. Railroad signals, penalty for injuring or tampering with. R. S. c. 52, § 89. Whoever intentionally and without right injures, destroys or molests any signal of a railroad corporation, or any line, wire, post, lamp or other structure or mechanism used in connection with any signal on a railroad, or destroys or in any manner interferes with the proper working of any signal on a railroad, shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding two years.

Sec. 83. Speed at railroad crossings; signals to warn approaching trains. R. S. c. 52, § 90. When one railroad crosses another on the same grade, every engineman on both, when approaching the point of intersection, with an engine with or without a train, shall stop his engine within five hundred feet of such point and before reaching it, and shall pass it at a rate not exceeding eight miles an hour, except when from the condition of the track or train it shall be necessary to run at greater speed; in which case the conductor or person in charge of the train shall station some person at said crossing, with a flag by day and a lantern by night, to warn trains approaching on the other road; but when two or more crossings on the same road are within four hundred feet of each other, one stop is sufficient; any such engineman, conductor, or person in charge of the train violating this provision forfeits, for each offense, one hundred dollars, and the corporation on whose road the offense is committed forfeits two hundred dollars.

Sec. 84. Regulation of signals at railroad crossings; signals for approaching trains; preference given to passenger-trains at crossings. R. S. c. 52, § 91. When railroads cross each other at grade, the parties operating the railroad last located there, shall build and maintain a suitable signal-station at such crossing, at which a competent signal-officer shall be kept at the joint expense of the parties operating the railroads. The signal shall not be set for a train to cross, until the engine of such train shall have arrived within five hundred feet of the intersection and stopped; and no train or engine shall cross the track of the other road, until the proper signal for it to cross shall have been set in position by the signal-officer. Only one train or engine shall be allowed to cross under one setting of the signal unless coming from opposite directions on the same railroad. When the signal has been set for the trains on one of the railroads, it shall not be changed until those trains shall have passed entirely over the crossing. When trains on both railroads approach the crossing at about the same time, preference shall be given to passenger-trains and the signal shall be set for the trains on each road in alternate order.

Sec. 85. Automatic signals may be established at railroad crossings; railroad, establishing such system, exempt from provisions of §§ 83, 84. R. S. c. 52, § 92. The public utilities commission may, on the application of any railroad corporation whose road crosses another railroad at the same level, after due notice and hearing of the parties, authorize the applicant to establish and maintain a system of interlocking or automatic signals, at any crossing of said roads, at its own expense, and erect and main-

tain the necessary wires, rods, signal-posts and signals, in such manner as the commission shall prescribe. And when such system is established, and has been approved in writing by said commission, the corporation establishing the same, and its railroad, shall be excepted, as to that crossing, from the provisions of the two preceding sections, so long as the public utilities commission shall continue their approval.

89 Me. 563.

Sec. 86. When both such railroads may be exempt from provisions of §§ 83, 84; payment of expense of such system; revision of award. R. S. c. 52, § 93. Whenever, after the establishment and approval of such system of signals, the party owning or operating said other railroad at such crossing shall have paid to the corporation by which said signals were established such part of the cost for establishing the same as shall, after hearing on petition of the party owning or operating said other railroad, be awarded by the public utilities commission, both railroads shall be excepted, as to that crossing, as provided in the preceding section, from the provisions of sections eighty-three and eighty-four. Until such payment said other railroad corporation shall contribute toward the expense of operating said signals, in semi-annual payments, a sum equal to the cost to it of operating the signals used by it at said crossing before the establishment of the signals herein provided for. After payment of the award aforesaid the expense of maintaining and operating the same shall be borne by the two railroad corporations according to the proportions fixed by the award for paying the original cost of the signals. And said award, so far as it relates to the cost of maintaining and operating said signals, may, at the request of either party, be revised after an interval of five years from the original award or from the award next preceding such request.

Sec. 87. Location of railroad near the station of another company forbidden. R. S. c. 52, § 94. No railroad company shall construct or maintain a track, or run an engine or cars on a street or highway so near any station of another railroad as to endanger the safety and convenient access to and use of such station for ordinary station purposes.

65 Me. 123.

Railroad Equipment.

Sec. 88. Contract for conditional sale of railroad equipment. R. S. c. 52, § 95. In any contract for the sale of equipment or rolling-stock for a railroad of any kind, it shall be lawful to agree that the title to the property sold or contracted to be sold, although possession thereof may be delivered immediately, or at any time or times subsequently, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall have and retain a lien thereon for the unpaid purchase money. And in any contract for the leasing or hiring of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of such contract, and that the rentals or amounts to be received under such contract, may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or bailee until the purchase price shall have been paid in full, and until the terms of the contract shall have been fully performed, notwithstanding delivery to and possession by

CHAP. 57

such lessee or bailee; provided, that no such contract shall be valid as against any subsequent judgment creditor, or any subsequent bona fide purchaser for value and without notice, unless:

I. The same shall be evidenced by an instrument executed by the parties and duly acknowledged by the vendee or lessee or bailee as the case may be, or duly proved, before some person authorized by law to take acknowledgment of deeds, and in the same manner as deeds are acknowledged or proved.

II. Such instrument shall be filed for record in the office of the secretary of state of this state.

III. Each locomotive engine, or car so sold, leased or hired, or contracted to be sold, leased or hired as aforesaid, shall have the name of the vendor, lessor or bailor plainly marked on each side thereof, followed by the word "owner" or "lessor" or "bailor," as the case may be.

Sec. 89. Contracts and declarations shall be recorded by secretary of state. R. S. c. 52, § 96. The contracts herein authorized shall be recorded by the secretary of state in a book of records to be kept for that purpose. And on payment in full of the purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect may be made by the vendor, lessor or bailor, or his or its assignee, which declaration may be made on the margin of the record of the contract, duly attested, or it may be made by a separate instrument, to be acknowledged by the vendor, lessor or bailor, or his or its assignee, and recorded as aforesaid.

Sec. 90. Provisions of c. 114, § 8, and c. 96, shall not apply to such contracts; property subject to trustee process. R. S. c. 52, § 97. The provisions of section eight of chapter one hundred and fourteen shall not apply to any contract specified in section eighty-eight, nor shall any contract specified in said section be construed a mortgage or an instrument under chapter ninety-six, requiring foreclosure and entitling the holder of property thereunder to an equity of redemption, but any personal property held under any contract specified in section eighty-eight shall be subject to trustee process as provided in section fifty of chapter ninety-one.

Sec. 91. Contracts made before April 29, 1893, not affected. R. S. c. 52, § 98. The three preceding sections shall not be held to invalidate or affect in any way, any contract of the kind referred to in section eighty-eight, made before the twenty-ninth day of April, in the year eighteen hundred and ninety-three, and any such contract theretofore made may, upon compliance with the provisions hereof, be recorded as herein provided.

Note. Provisions for foreclosure of railroad mortgages extended to certain mortgages given by other corporations, c. 51, § 73.

Proceedings for sale on execution of franchises of railroads, or their right to redeem mortgages, c. 81, § 44; c. 89, § 21.

Procedure for selling unclaimed baggage or other merchandise, c. 59, §§ 17, 18; perishable merchandise, § 19; livestock, § 20; transportation of property, title to which is in dispute, may be delayed, § 22.

Erection of electrical line along a railroad, c. 60, § 37.

Vacancies in trustees under trust deed or mortgage, how filled, c. 73, §§ 17-19.

Penalty for destruction of human life by obstruction of railroad tracks, c. 120, § 5; for breaking and entering railroad-car, with intent to commit felony, c. 121, § 7; for larceny from railroad-car, c. 122, § 2; for railroad strikes, c. 125, §§ 7, 8, 9; for gambling in railroad-cars, c. 127, § 5; for malicious mischief to railroad-cars, c. 129, § 7; to transit points or bench-marks of railroad location or survey, c. 129, § 9; for removal of packing from journal-boxes, c. 129, § 8; to milestone or guide-board on railroad, c. 129, § 24; for wanton injury to baggage, c. 129, § 33.

Regulation of transportation of cattle and other animals, c. 126, §§ 51-56.