

# MAINE STATE LEGISLATURE

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VOLUME 1



THE MICHIE COMPANY

CHARLOTTESVILLE, VIRGINIA

## Chapter 23.

### State Highway Department.

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**Object of chapter.**—The object of this chapter was to establish a system of state highways and to create a highway commission to have general charge of the same. *Larson v. New England Tel. & Tel. Co.*, 141 Me. 326, 44 A. (2d) 1.

**Chapter examined in its entirety.**—It is

necessary to examine and analyze with some care this chapter in its entirety in order to determine the intent of the legislature in regard to the subjects treated therein. *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

### Objective. Rules of Construction.

**Sec. 1. Objectives.**—The objectives of this chapter are to establish a state highway commission; to provide for an interlocking system of state highways; to furnish state aid for important county and town highways and bridges; to pro-

vide for the continuous maintenance of all highways and bridges to the improvement of which the state has contributed or shall hereafter contribute unless otherwise provided by law; to provide for the equitable distribution of the proceeds of state bonds issued for the construction of highways and bridges; and to cooperate with the federal government in the construction of highways and bridges. (R. S. c. 20, § 1.)

Cited in *Graffam v. Poland*, 115 Me. 375,  
99 A. 14.

**Sec. 2. Rules of construction.**—The rules of construction in section 22 of chapter 10 shall apply to this chapter. The word “maintenance” shall include the restoring of reconstructed and improved highways to their condition when improved and shall be applicable only to highways to the improvement of which the state has contributed or shall hereafter contribute, except as elsewhere herein provided. The word “commission” shall mean the state highway commission. The word “highway” shall mean all of the right of way that may have been laid out by the state, county or town. The word “town” shall include cities, towns, organized plantations and unincorporated townships, except as herein otherwise indicated. The words “municipal officers” shall also include county commissioners having jurisdiction over highways in unincorporated townships. The word “valuation” shall mean the valuation last made by the state tax assessor. The word “section” shall refer to this chapter, unless otherwise indicated. As used in this chapter, and all amendments and additions thereto, the words “compact or built up section” shall mean a section of the highway where buildings are nearer than 200 feet apart for a distance of  $\frac{1}{4}$  of a mile. (R. S. c. 20, § 2. 1951, c. 158, § 1; c. 321, § 1.)

#### State Highway Commission: Organization.

**Sec. 3. Commission; appointment; tenure; choice of chairman; attorney general attorney for commission; annual reports.**—The state highway commission, as heretofore established, shall consist of 3 members to be appointed by the governor with the advice and consent of the council. One member shall be a member of the political party which cast the 2nd highest number of votes in the last gubernatorial election. One member shall be appointed by the governor as chairman who shall devote each full working day to his duties and whose salary shall be fixed by the governor and council. The term of office of the chairman shall be 7 years, subject only to removal for cause. The other members of the commission shall receive \$4,000 per year and shall be appointed for a term of 3 years and any vacancies shall be filled for the unexpired term. Each member of the commission, except the chairman, shall receive his actual expenses incurred in the performance of his official duties while away from his home. The attorney general shall be attorney for the commission and shall, without additional compensation, give the commission such advice and service as it may from time to time require. The commission shall be furnished with suitable offices at the seat of government. It shall make an annual report for the fiscal year ending June 30, to the governor and council, of its doings and the expenditures of its office, with such statement relative to the construction and maintenance of public highways and such recommendations as to the general policy of the state relative thereto as it considers appropriate. The chairman shall be the chief administrative officer, having general charge of the office and records, but all policy decisions of the commission must be by a majority of its total membership. (R. S. c. 20, § 3. 1951, c. 330. 1953, c. 398, § 1.)

**Sec. 4. Chief engineer; appointment; tenure; duties; assistants.**—The commission shall, subject to the provisions of the personnel law, appoint as chief engineer, a civil engineer, having experience in and knowledge of highway

construction. He shall, under the direction and control of the commission, have general charge of the office, the records and all construction and maintenance work, and may, with the approval of the commission, and subject to the provisions of the personnel law, employ necessary clerical assistance. He may, with the approval of the commission and subject to the provisions of the personnel law, employ such other engineers, supervisors, assistants and help as he may deem necessary in the administration and execution of the provisions of this chapter. (R. S. c. 20, § 4.)

See § 122, re salaries and expenses.

### **Powers and Duties of Commission. Controlled Access Highways. Condemnation Proceedings.**

**Commission must look to statute for authority.**—The commission being purely a creature of statute is subject to the rule universally applicable to all bodies that owe their existence to legislative act. It must look to the statute for its authority. *Larson v. New England Tel. & Tel. Co.*, 141 Me. 326, 44 A. (2d) 1.

**Sec. 5. Highways classified.** — The commission shall cause charts and maps to be made showing the location and mileage of all highways in the state, and shall classify the highways of the state into 4 general classes, and may from time to time amend such classification namely: 1st, state highways, which shall mean a system of connected main highways throughout the state; 2nd, state aid highways, which shall mean such highways not included in the system of state highways as shall be thoroughfares between principal settlements, or between settlements and their market or shipping point and in so far as practicable feeders to the state highway; 3rd, 3rd class highways, which shall mean other highways designated, determined and accepted by the state highway commission to receive aid from the state as provided by law; 4th, 4th class highways which shall mean all other highways not included in the 3 classes above-mentioned. (R. S. c. 20, § 5.)

**Classification by commission not conclusive.**—See notes to § 108. 127 A 722; *Starrett v. State Highway Comm.*, 126 Me. 205, 137 A. 67; *Rangley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Applied** in *Williams v. Vinalhaven*, 123 Me. 505, 124 A. 213.

**Stated** in *Bullard v. Allen*, 124 Me. 251,

**Sec. 6. Controlled access highways.**—A controlled access highway is a highway on which, in the interest of safety and efficiency of operation, abutting property owners have no right of direct access and on which the type and location of all access connections are determined and controlled by the commission. (1949, c. 400.)

**Sec. 7. Use of controlled access highways.** — The commission shall have full power and authority to lay out, establish, acquire, open, construct, improve, maintain, discontinue and regulate the use of controlled access highways within this state in the same manner or manners in which said commission may now lay out, establish, acquire, open, construct, improve, maintain, discontinue and regulate the use of highways within the state. The commission shall also have any and all other additional authority and power relative to such controlled access highways as they now respectively possess relative to highways, including the authority and power to acquire or accept title to the lands or rights of way needed for the same. (1949, c. 400.)

**Sec. 8. Easements of access.** — Where an existing highway has been designated as, or included within, a controlled access highway by said commission, existing easements of access may be so extinguished by purchase or by taking under eminent domain, in accordance with any existing method now exercised by

said commission in purchasing or taking land for highway purposes. Access to such controlled access highway from any existing highway, road or street may be regulated and restricted by the commission. Access to any such controlled access highway from any new highway, road or street shall be subject to the consent and approval of the commission. (1949, c. 400.)

**Sec. 9. Commercial enterprises prohibited.** — No commercial enterprise or activity shall be authorized or conducted by the commission or any agency or officer of the state within or on the property or right-of-way acquired for any controlled access highway under the provisions of sections 6 to 12, inclusive, except that the commission may permit the erection or installation of electric power, telegraph, telephone or pipe line facilities within the controlled area. (1949, c. 400.)

**Sec. 10. Signs designating location of service facilities.** — The location of service, fuel and recreational facilities may be indicated to the users of any controlled access highway by appropriate signs erected within the right-of-way, at or near the junction of such access roads as may be provided. The size, style, specifications and location of such signs shall be determined by the commission. (1949, c. 400.)

**Sec. 11. Limitations of sections 6 to 12.**—The provisions of sections 6 to 12, inclusive, shall not apply to highways other than those in the state highway system as designated by the commission nor to those in the compact or built up areas of any city or town as defined in section 113 of chapter 22 except with the approval of the municipal officers of the city or town wherein such compact or built up area is situated. (1949, c. 400.)

**Sec. 12. Interpretation of sections 6 to 12.**—The provisions of sections 6 to 12, inclusive, shall be considered supplementary and in addition to any and all other powers now exercised by the commission. (1949, c. 400.)

**Sec. 13. State and state aid highway system; surveys.**—The commission shall lay out, construct and maintain a system of state and state aid highways substantially as described in this chapter. All persons employed by the commission under the provisions of this chapter are authorized to the extent necessary for surveys and preliminary engineering to enter and cross all lands within, adjoining and adjacent to the area to be surveyed. (R. S. c. 20, § 6. 1949, c. 328.)

**Cross reference.**—See c. 22, § 88, re “through ways”.

**Necessity of preliminary action by municipality.**—The authority given to the commission to “lay out, construct and maintain state aid highways” becomes effective only after the preliminary action called for in the other sections of this chapter has been exercised by the interested municipalities. Rangeley Land Co.

v. Farnsworth, 133 Me. 70, 174 A. 43. See notes to § 42.

**Quoted** in part in Larson v. New England Tel. & Tel. Co., 141 Me. 326, 44 A. (2d) 1.

**Cited** in Turner v. Portland, 114 Me. 454, 96 A. 742; Williams v. Vinalhaven, 123 Me. 505, 124 A. 213; Grindell’s Case, 126 Me. 287, 138 A. 66.

**Sec. 14. Record of location and change of location of highways.**—Whenever the state highway commission shall establish and locate a state highway or state aid highway, or any county or town shall establish and locate a 3rd class highway, in any county of this state where the establishing and locating change the present location of any county road, the said state highway commission shall cause to be filed with the county commissioners of the county in which any such road is located, an accurate description of its metes and bounds, and courses and distances, and also an accurate plan of such location; and whenever

the location of any state highway, or state aid highway or 3rd class highway is changed in any county, an accurate description of such changes setting forth the metes and bounds of the same, its courses and distances, shall be filed with the county commissioners in the county where such state highway, or state aid highway or 3rd class highway is located; and also an accurate plan of such location. (R. S. c. 20, § 7.)

**Sec. 15. Provisions of Federal Aid Road Act accepted; commission to cooperate with federal government.**—The provisions of the Federal Aid Road Act (public number 156) entitled “An Act to Provide that the United States shall aid the states in the construction of Rural Post Roads and for other purposes,” approved July 11, 1916, and all other acts amendatory thereof and supplementary thereto, are assented to. The state highway commission is authorized and empowered to accept, for the state, federal funds apportioned under the provisions of the above act as amended and supplemented, to act for the state, in conjunction with the representatives of the federal government, in all matters relating to the location and construction of highways to be built with federal aid pursuant to the provisions of said act, and to make all contracts and do all things necessary to cooperate with the United States government in the construction and maintenance of public highways in accordance with the above act, as amended and supplemented. (1951, c. 321, § 2.)

**Sec. 16. Cooperation with federal government in marking interstate roads.**—The commission is authorized to cooperate with the federal government in formulating and adopting a uniform system of numbering or designating roads of interstate character within this state, and in the selection and erection of uniform danger signals and safety devices for the protection and direction of traffic on said highways. (1951, c. 321, § 2.)

**Sec. 17. Additional powers.**—The commission is authorized and empowered to obtain from the federal government or any agency thereof, through purchase or gift, supplies, materials and equipment which is adaptable to highway maintenance and construction. Such supplies, materials and equipment may be sold, leased or given by the commission to the several towns in the state who make a written request therefor, on such terms and conditions as the commission, in its discretion, deems necessary. (1951, c. 321, § 2.)

**Sec. 18. Cooperation with Bureau of Public Roads, Department of Commerce.**—Municipal officers are authorized to cooperate with the state highway commission and with the Bureau of Public Roads, Department of Commerce in the designation and construction of such parts of any federal aid secondary highway roads that are or will be within their respective towns. (1951, c. 321, § 2.)

**Sec. 19. Location, alteration, discontinuance and drainage of state and state aid highways.**—The commission may alter, widen or change the grade of any state or state aid highway whenever in its judgment the public exigency may require, and may lay out, establish and open a new highway as a state highway; and upon appropriate petition from municipal officers may lay out, establish and open a new highway as a state aid highway. It may also discontinue a highway, or a portion thereof, as a state or state aid highway and the same shall be thereafter maintained by the town or county originally liable therefor except as herein otherwise provided.

The commission may construct ditches and drains to carry water away from any highway that is under its supervision or that it is constructing, and over or through any lands of persons or corporations when it deems it necessary for public convenience or for the proper care of such highway; provided that no such

ditch or drain shall pass under or within 20 feet of any dwelling house without the consent of the owner thereof. (1951, c. 321, § 2.)

Cited in *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Sec. 20. Purchase and taking lands for highways and materials.**—The commission may purchase or take over and hold for the state, such materials and land as it may deem necessary to lay out and establish, construct, improve or maintain, or to provide a change of location or alignment of, or to provide drainage for, any state or state aid highway as herein designated, or to secure materials, including clay, gravel, sand and rock, with necessary ways and access thereto, for the construction, improvement and maintenance of state and state aid highways under the provisions of this chapter. (1951, c. 321, § 2.)

**Sec. 21. Condemnation proceedings.** — If the said commission determines that public exigency requires the taking of such land or any interest therein forthwith, or if the commission is unable to purchase such material or land or the necessary ways and access thereto at what it deems a reasonable valuation, it shall cause the same to be surveyed and described and a plan thereof made and said description to be recorded in the registry of deeds for the county or registry district where the same is located, and a print of the plan to be filed in the county commissioner's office for the county where the same is located, and a notice thereof to be given in some newspaper, if any, published wholly or in part in said county.

In case there is a mortgage of record covering any of said land, written or printed notice of said taking shall be sent forthwith by registered mail to the holder of record of said mortgage, addressed to his place of abode if known, otherwise to the abode or address as set forth in said record.

The recording of the said description shall vest the fee of the described property in the state. Within 1 year after the completion of the project for which the land is taken, the commission shall file a plan for recording in the registry of deeds for the county or registry district where the same is located. The commission or any party claiming an interest in the land taken by eminent domain may petition the "joint board," so called, which shall be composed of the members of the commission and the county commissioners of the county wherein such material or land is located, for a determination of the damages caused by the taking. The joint board shall order a time and place for a hearing to be held in the county where the property lies and shall cause 30 days' notice to be given of the said time and place by posting copies of the petition with their order thereon in 1 conspicuous place in each town in which any such property lies, by publishing said petition and order in some newspaper, if any, in said county and by giving written notice by registered mail to the holders of record titles to the land to be sent to said owner's place of abode, if known, otherwise to the abode or address as set forth in said records.

The joint board shall meet at the time and place appointed, and view the property, and hear the interested parties present. They shall then determine the damages. The board shall notify the interested parties by registered mail of the final decision of the board. Verbal notice shall not be considered as official or binding. (1951, c. 321, § 2.)

**Sec. 22. Proceedings on damage claims.**—Whenever the commission shall alter, widen or change the grade of any state or state aid highway as provided in this chapter, to the injury of an owner of adjoining land, he may within 6 months after completion of the work apply to the commission in writing for a determination and assessment of his damages; and if the commission is unable to settle such damages at what it deems a reasonable amount, the commission or in-



terested parties may apply to the joint board in writing for a determination and assessment of the damages. The proceedings shall then be the same as in condemnation cases. (1951, c. 321, § 2.)

**Sec. 23. Appeals from decisions of the "joint board."**—Any person aggrieved by said decision of the joint board may appeal therefrom to the superior court in the county where the land is situated within 30 days after the date of the receipt of the notice of award. The appellant shall file notice of his appeal with the state highway commission at Augusta by registered mail within the time above limited, and at the 1st term of the court held following the expiration of the said 30 days shall file a complaint setting forth substantially the facts upon which the case shall be tried like other cases. The court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for the costs only. The clerk shall certify the final judgment of the court to the commission, which shall enter the same of record, and order the damages therein recovered to be paid by the treasurer of state. The party prevailing recovers costs to be taxed and allowed by the court, except that they shall not be recovered by the party claiming damages, but by the other party, if on such appeal by either party said claimant fails to recover a greater sum as damages than was allowed to him by the board. The committee shall be allowed a reasonable compensation for their services to be fixed by the court upon the presentation of their report and paid by the treasurer of state upon the certificate of the clerk of courts. (1951, c. 321, § 2.)

**Sec. 24. Land acquired may be vacated, sold or leased.**—The commission may vacate any land or part thereof or rights in land which have been taken or acquired for highway purposes under the provisions of this chapter, by executing and recording a deed thereof, and such action shall revert the title to the lands or rights so vacated in the persons, their heirs and assigns, in whom it was vested at the time of the taking, and the value at the time of vacation may be pleaded in mitigation of damages in any proceedings therefor on account of such taking. The governor and council on recommendation of the commission may sell and convey on behalf of the state the interests of the state in property taken or acquired by purchase under this chapter and deemed no longer necessary for the purposes hereof, and they may lease such interests in such property pending such sale or the advantageous use of such property for highway purposes.

The proceeds of such sales or leases shall, as far as practicable, be credited to the fund from which payment was made for the land. (1951, c. 321, § 2.)

**Sec. 25. Highway boundaries; procedure; damages.** — The commission may establish the boundary lines, limits or locations of any or all state highways and state aid highways and cause durable monuments to be erected at the angles thereof. Whenever in the opinion of the commission the boundary lines, limits or locations of any state highway or state aid highway, or any part thereof, shall become lost, uncertain or doubtful, they may reestablish the same. They shall file with the town clerk of the town in which the highway is located and with the registry of deeds in the county in which the highway is located, maps showing the boundary lines, limits or location of such reestablished highway, and such lines, boundaries, limits and location, as reestablished, shall be the lines, boundaries, limits and location of such highway. The commission shall post descriptions, of such parts of such highways as lie within any towns, in 1 conspicuous place in such towns, and shall publish a description of such parts of such highways as lie within any county, in some newspaper, if any, in such county. Any person aggrieved by the reestablishment of such boundary lines, limits and lo-

cation may petition for the assessment of damages to the superior court in the county where the reestablished highway is located within 60 days from the filing of such maps with the registry of deeds, and not thereafter, and the court shall assess the damages, if any, by jury, provided such reestablished boundary lines, limits or location are not the same as originally established. The commission shall pay from the funds of its department all expenses incurred hereunder and the amount of final judgment and costs; except that the amount of the final judgment costs shall be paid by the petitioner if such petitioner fails to recover any damages. (1951, c. 321, § 2.)

**Sec. 26. Detour roads and signs.**—Whenever it becomes necessary to close a state or state aid highway to travel on account of construction, before such state or state aid highway is closed, the commission shall establish the most practical detour road around the state or state aid highway to be constructed, have the same properly signed at all intersecting roads or streets indicating the principal town or city in either direction and cause the detour road to be put in proper condition to withstand the travel and maintained in such condition until the state or state aid highway being constructed or reconstructed is open to travel. If the commission neglects to so sign, establish or maintain such detour road the same shall be done by order of the governor and council. Whenever practicable, the travel shall be permitted to pass over a state or state aid highway under construction, and the commission shall then cause to be erected the following sign at either end of the construction work: "State road under construction. Pass at your risk. Maine State Highway Commission." Upon completion of the state or state aid highway the commission shall cause the immediate removal of all such signs as also all detour signs. (1951, c. 321, § 2.)

**Sec. 27. General powers and duties of commission.**—The commission may from time to time make and shall enforce rules and regulations relating to construction, maintenance and use of all state and state aid highways and all other highways to which the state contributes by law for the improvement thereof, and relating to the manner of conducting all investigations and hearings and the administration of its office, powers and duties, subject to the provisions of this chapter; and shall direct the expenditure of all moneys for construction, maintenance and use of all state and state aid highways and of all other highways for which state funds are provided by law. It may obtain leases for such land and office space as it deems necessary for the performance of its duties.

By consent of all parties in interest, any investigation, inquiry or hearing which the commission is authorized to hold may be held by a single member of the commission, and his finding, when approved by the commission and so shown on its records, shall be deemed to be the finding of the commission.

Except as otherwise provided in this chapter, the purchase of supplies, materials and equipment for highway maintenance and construction purposes shall be made through the state purchasing agent as by law provided. The commission may be consulted by and shall, without charge, advise municipal officers and road commissioners on the subject of construction and maintenance of public highways, bridges and other structures. The commission shall whenever practicable give preference in employment to the inhabitants of the town in which such highways are located. (R. S. c. 20, § 8. 1945, c. 378, § 17. 1951, c. 321, § 3.)

**Cross references.**—See §§ 103, 104, re signs and town line markers; c. 15, § 4, re aid from state police; c. 22, § 88, re designation of "through ways"; c. 22, § 97, re special permits for certain vehicles on roads and bridges; c. 22, § 100, re closing of ways; c. 22, § 108, re correcting abuse of highways by commercial vehicles; c. 22, § 146, re regulation of speed of motor vehicles; c. 27, § 22, re employment on public works of prisoners committed to state prison; c. 30, § 56, re employment preference for Maine citizens; c. 45, § 65, re discontinuance of railroad crossings;

c. 89, § 24, re application to county commissioners for services of prisoners; c. 96, § 51, re abolishment of grade crossings; c. 96, § 104, re towns to maintain guideposts; c. 96, § 108, re removal of trees, etc., at or near railroad crossings; c. 96, § 109, re regulation of turf in streets, etc.; c. 96,

§ 110, re awarding bridge contracts. See also note to § 72.

**Quoted** in part in *Larson v. New England Tel. & Tel. Co.*, 141 Me. 326, 44 A. (2d) 1.

**Cited** in *Grindell's Case*, 126 Me. 287, 138 A. 66.

**Sec. 28. Certain provisions for traffic direction and control.**—The state highway commission may make and shall enforce rules and regulations relating to the installation and maintenance of traffic control signals, devices, signs and markings on all state, state aid and federal aid highways. The commission may be consulted by and shall without charge advise municipal officers and road commissioners on the subject of traffic control.

The commission shall have authority to install and maintain traffic control signals, warning, regulatory, directional and informational signs and markings, on all state and state aid highways and highways constructed under its direction with federal funds, when, in its opinion, such signs, signals and markings are necessary for public safety and convenience.

On all designated state and state aid highways, the location, form and character of informational, directional, regulatory and warning signs and traffic control signals and devices, erected by towns, shall be subject to approval of the commission.

On any highway or street hereafter constructed with federal aid in any town, the location, form and character of informational, directional, regulatory and warning signs, curb and pavement or other markings, and traffic signals, installed or placed by any public authority or other agency, shall be subject to the approval of the commission with the concurrence of the public roads administration.

The commission is authorized and directed to establish a system of numbering all classes of highways which, in its opinion, is necessary for public convenience, and to publish maps from time to time showing the highways so numbered.

On all designated state and state aid highways the commission may prohibit other than one-way traffic when in its opinion such prohibition is necessary for public safety.

Provided, however, that nothing herein contained shall be construed to apply to the installation or maintenance of signals, devices, signs, lights or warnings at approaches to railroad crossings.

The issuance of any order or rule and regulation may be proved by submitting a copy thereof signed by any member of the commission and duly notarized.

Whoever violates any order or rule and regulation of the commission issued under authority of this section shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. (1945, c. 196, § 1.)

See c. 22, § 130, re regulation of traffic control by municipalities.

**Sec. 29. Cooperation with highway commission authorized.**—Towns are authorized to enter into agreements with the state highway commission for the expenditure of town funds for maintenance and repair of town roads; and the state highway commission is authorized, when requested by towns, to accept town funds for expenditure under its direction. (1945, c. 329, § 1. 1949, c. 349, § 27. 1951, c. 321, § 5.)

**Sec. 30. Rights granted commission in connection with highway openings.**—Wherever highways maintained by the state are affected, whether

said highways are situated in cities, in towns or in plantations, the commission shall have all and the same rights, powers and duties in connection therewith as are granted to cities in city streets by the provisions of sections 112 to 120, inclusive, of chapter 96 and to cities and towns by the provisions of sections 16 and 19 of chapter 50. Whenever the opening fee provided by section 115 of chapter 96 or by section 21 of chapter 50 has been paid to the commission and a permit for digging up and opening a highway maintained by the state has been issued by the commission, the holder of said permit shall be entitled to make the opening described therein without the payment of fees to the city or town or village corporation in which the street, road or highway to be opened is situated. (1951, c. 321, § 6. 1953, c. 308, § 20.)

**Sec. 31. Enforcement of provisions of section 78 of chapter 96.**—The commission shall cause complaint to be entered against any offender of the provisions of section 78 of chapter 96 when the way obstructed or affected by the obstruction is maintained by the state. The fines recovered in such cases shall be paid to the treasurer of state for the use of the state highway maintenance fund. (1951, c. 321, § 6.)

**Sec. 32. Logs, etc., in highway, may be removed.**—When logs, lumber or other obstructions, without necessity, are left within the limits of any highway right-of-way under the supervision and maintenance of, or construction by the commission, it may cause them to be removed, and shall not be liable for loss or damage thereof, unless occasioned by design or gross negligence. When no one appears to pay for the expense and trouble of removal, the commission may sell at public auction so much thereof as is sufficient for that purpose, including charges of sale. The person through whose neglect or willful default they were left may be prosecuted as for a nuisance. (1951, c. 321, § 6.)

**Sec. 33. Persons assigned to assist collection of gasoline tax.**—The commission may assign any person in the employ of the state highway department to act in conjunction with state, county or town officers to enforce collection of the tax on gasoline; but no such person shall be so assigned unless his duties as an employee of said department permits such assignment or if otherwise he would be unemployed. (1951, c. 321, § 6.)

**Sec. 34. Officers appointed to enforce commission's orders re closed or restricted ways; powers and fees of sheriffs.** — The commission may appoint any person in its employ whose special duty it shall be to enforce the statutes and orders promulgated thereunder which prohibit or restrict the passage of vehicles and trailers over ways and bridges, or designate sections thereof, under such conditions or in such manner as may cause undue damage to any such way or bridge. Every such person shall be appointed in writing by the commission to serve during its pleasure and shall have the same power as sheriffs and their deputies to arrest and prosecute all persons caught violating the provisions of said statutes and orders within the territorial limits designated in his appointment. He shall be entitled to the same fees as sheriffs and their deputies for like services. (1951, c. 321, § 6.)

**Sec. 35. State liable for certain judgments recovered against towns and counties on account of defects in state and state aid highways.**—The state shall be liable to towns and counties for any judgment recovered in any action against such town or county and for reasonable attorney fees, costs and expense incurred in defending such action under the provisions of sections 89 to 93, inclusive, of chapter 96, but only when pertaining to those state and state aid highways to the improvement of which the state has contributed; or to which sections 68 or 72 may apply; provided, however, that within 24 hours after any

of the various officials mentioned in said section 89 of chapter 96 first has notice of such defect or want of repair or sufficient railing, such officials shall give written notice thereof to some member of the commission; provided also that within 10 days after any of the various officials mentioned in said section 89 first has notice of any injury to any person, such officials shall give written notice thereof to some member of the commission; provided also that the state shall not be liable for any injury sustained upon the sidewalk of any such state or state aid highway or sustained during the construction of such state or state aid highway within its limits; provided also that the state shall not be liable for any injury under the provisions of this section in an amount exceeding \$4,000; provided also that any sums recoverable under the provisions of section 94 of chapter 96 shall be deducted from the judgment against such town or county in determining the liability of the state under the provisions of this section. The commission may appear and take upon itself the defense of any action affecting the liability of the state under the provisions of this section.

All judgments, fees, costs and expenses reimbursable to towns and counties under the provisions of this section shall be a proper charge against the fund for maintenance. (1951, c. 321, § 6.)

**Sec. 36. Construction of entrances to highways regulated.**—It shall be unlawful to construct or maintain any driveway, entrance or approach within the right-of-way of any state or state aid highway which lies outside of the compact or built up section, so called, without a written permit from the state highway commission, or if within the compact or built up section, so called, without a written permit from the proper town officials, and such right-of-way shall be deemed the full width of the right-of-way as laid out by the state, county or the town. The commission and towns are authorized and directed to make such rules and regulations as to design, location and construction of driveways, entrances and approaches on said highways as will adequately protect and promote the safety of the traveling public, but the commission and the towns shall in no case deny reasonable ingress and egress to property abutting the highway except on limited access highways. No permit shall be required for any existing driveway, entrance or approach unless the grade or location of the same is changed, but if any driveway, entrance or approach is changed in location or grade or improved, a permit shall be required.

Whoever violates any of the foregoing provisions or the rules and regulations made under authority thereof shall be punished by a fine of not more than \$100. (1951, c. 332. 1953, c. 154.)

**Sec. 37. Clearance markings on overpasses.**—The state highway commission shall mark all overpasses, on all state and state aid highways, and on all other highways for which state funds are provided by law, with the height of the clearance of such overpass and such markings shall be maintained so as to be clearly visible for a distance of 200 feet on the highway. The same requirements shall apply to highway bridges when the vertical underclearance is limited by the portal, bracing or other structural members. This section shall apply only when the vertical clearance is less than 14 feet 6 inches. The clearance indicated is to be the normal summer clearance; provided nevertheless, that such overpasses not indicated herein shall be marked by the municipalities in which the same shall be found and in accordance with the standards for marking hereinbefore set forth. (1951, c. 378. 1953, c. 308, § 19.)

**Construction: State Highways. System Established. Award  
of Contracts for Construction.**

**Sec. 38. State highways; expense of construction.**—The commission

shall be sole arbiter of the designation of state highways, but shall, after reasonable notice by publication, give all parties interested an opportunity to be heard thereon before such designation is made.

The expense of constructing such state highways shall be borne wholly by the state except as otherwise provided in this chapter. (R. S. c. 20, § 19.)

*Cited in* Turner v. Portland, 114 Me. 126 Me. 287, 138 A. 66; Rangeley Land 454, 96 A. 742; Williams v. Vinalhaven, Co. v. Farnsworth, 133 Me. 70, 174 A. 43. 123 Me. 505, 124 A. 213; Grindell's Case,

**Sec. 39. Indian Island and Township roads part of state highway system.**—The commission is directed to take over as a part of the state highway system all the roads on Indian Island, Penobscot county, in Pleasant Point and Indian Township in Washington county and the bridge between Indian Island and Old Town. Said roads and bridge may be reconstructed from time to time as in the judgment of the commission is necessary, and the expense thereof, except as otherwise provided in section 48, shall be paid from funds available for the construction of state highways. (R. S. c. 20, § 20. 1951, c. 392, § 1.)

See § 70, re maintenance of highways in Indian Township, etc.

**Sec. 40. Contracts for construction of state highways.**—The commission shall have full power in the letting of all contracts for the construction of all state highways and other work under its jurisdiction, except as elsewhere herein otherwise provided. The commission shall make all surveys, plans, estimates, specifications and contracts for all proposed work and shall, except as otherwise provided in this chapter, advertise for bids for the same in two or more public newspapers printed wholly or in part in the state, also in 1 public newspaper printed wholly or in part in the county where the proposed work is to be done, if any such newspaper is so printed in such county; such advertisement shall state the place where the bidders may examine the plans and specifications, and the time and place where the bids for such work will be received by the commission. Each bidder must accompany his bid with a cashier's check or a certified check or a United States postal money order, payable to the treasurer of state, for an amount which the commission considers sufficient to guarantee that if the work is awarded to him he will contract with the commission for its due execution; such checks or money orders shall be returned to the respective unsuccessful bidders. The check or money order of the successful bidder shall be returned to him upon the execution and delivery to the commission of his contract and his bond with sufficient sureties, in terms satisfactory to the commission for the due execution of such work. All bids so submitted shall be publicly opened, read and posted at the time and place stated in such advertisement. The commission shall have the right to reject any and all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for state highway construction within its limits, and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The commission may, however, construct state highways by day labor without advertising for bids; and may, with the approval of the governor and council, award contracts for state highways without advertising for bids if the same shall be for the best interest of the state. The commission shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts, and for the protection of the state and town from all liability arising from damage or injury to persons or property. (R. S. c. 20, § 21. 1953, c. 202.)

**Cross reference.**—See c. 16, §§ 45-49, re Authority of town to construct highway. —A town has no authority to construct

any part of a state aid highway as such, except as it contracts so to do with the highway commission under this section. Neither has the state highway commission any authority to order a town, or its officials, to construct highways of this class within the town, or order, or authorize the selectmen of a town to enter into a contract in behalf of the town for such work. It can only proceed under this section. *Williams v. Vinalhaven*, 123 Me. 505, 124 A. 213.

The general authority and duty of a town to maintain its public ways gives it

no authority to construct state aid highways; and while the highway commission may contract with the town to do such work, without such a contract, a town, and surely its selectmen in its behalf, cannot enter into a binding contract with an individual to construct highways of this class. *Williams v. Vinalhaven*, 123 Me. 505, 124 A. 213.

Stated in *Graffam v. Poland*, 115 Me. 375, 99 A. 14.

Cited in *Grindell's Case*, 126 Me. 287, 138 A. 66.

**Sec. 41. No part of bond issue funds to be used in compact portions of towns; exception.**—No funds for construction derived from any bond issue shall be expended on any highway within compact portions of any town, except in towns of less than 5,000 inhabitants, such compact portions to be determined by the commission; except that this section shall not apply when funds derived from any bond issue are used to match federal funds for highway and bridge projects constructed within such compact sections. (R. S. c. 20, § 22. 1945, c. 126.)

### Construction: State Aid Highways. System Established. Procedure. Town Appropriations. Apportionments of State Aid.

#### State to construct state aid highways.—

By §§ 42-57, the state has taken over the work of constructing and maintaining all state aid highways. The full authority to make all contracts, hire all labor and purchase all materials for the construction of such ways is clearly vested in the state highway commission, acting for the state. *Grindell's Case*, 126 Me. 287, 138 A. 66.

**And no statutory authority for contract between state and municipality.**—There is no provision of any statute under which it is suggested that either the state or any city or town, even if they so desired, is expressly authorized to enter into a partnership in the construction of state aid highways. It would require legislation in clear terms to authorize such an unusual relation between the state and one of its towns. *Grindell's Case*, 126 Me. 287, 138 A. 66.

**Highway commission not agent of municipality.**—While the expense of constructing and of maintaining state aid highways under the state highway act is to be paid from a joint fund to which towns contribute (§ 46), the state highway commission is not an agent of the town in which state aid highway happens to be located, but a state board acting for and on behalf of the state. *Grindell's Case*,

126 Me. 287, 138 A. 66.

Without specific provision making the state highway commission the joint agent of both the towns and state in constructing state aid highways and defining their joint responsibilities, it must be presumed that it was the legislative intent that the state highway commission should act in behalf of the state. *Grindell's Case*, 126 Me. 287, 138 A. 66.

**And municipality not liable under Workmen's Compensation Act.**—Towns contributing to the joint state aid highway funds are not jointly liable with the state under the Workmen's Compensation Act for any injuries occurring during the construction of state aid highways under the provisions of §§ 42-57, unless the work of construction was being performed by the town under a contract. *Grindell's Case*, 126 Me. 287, 138 A. 66.

**Injunction to prevent construction of state aid highways.**—Injunction will lie to prevent construction of state aid highways by state authorities until the statutory requirements have been complied with and any interested taxpayer may properly institute proceedings to secure relief by that means. *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Sec. 42. State aid highways.**—Municipal officers may petition the commission to designate as state aid highways such public ways within their juris-

diction as will best serve outlying communities, connect adjoining towns and villages and facilitate travel in reaching markets, railroad connections and state roads; due consideration being given to cost as well as distance and volume of travel. Such petition presented to the commission for the designation of a state aid highway shall include an adequate description of the way which it is desired to have so designated, and upon the same being approved and accepted by the commission said way shall be established and known as a state aid highway. Twenty or more voters of the town in which said way is located, by written petition, presented within 30 days after the petition to designate such way as a state aid road has been filed with the commission, shall have the right to be heard on the acceptance thereof. The commission shall be the sole arbiter of the designation of state aid roads and may accept or reject any part or all of such way and impose terms in respect thereto. (R. S. c. 20, § 23.)

**The state highway commission is not authorized to construct a state aid highway on its own motion without initiative action on the part of any interested town, plantation or group thereof, by their municipal officers, or by county commissioners.** Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

The various enactments concerning state aid highways are all indicative of a plan which places upon the municipalities desiring state aid in construction of state aid highways the burden of initiating the proposition and submitting it to the highway commission for approval. Towns cannot compel the state to take part in the joint enterprise nor can the state compel towns to do so. Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

The somewhat elaborate provisions relating to the necessary action on the part of the municipal officers and towns and the right of twenty taxpayers to intervene and be heard before a state aid highway should be established would amount to nothing if they could all be dispensed with by summary and arbitrary action of the commission. Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

**And no state aid highway can be con-**

**structed without local consent and cooperation,** and that consent and cooperation must be procured before state authorities can act. Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

It is not contemplated that the state shall bear the entire expense of construction of a state aid highway. In order to procure state aid the town must make an appropriation for such construction (§ 44). Certainly it could not be contended that the commission could compel a town to make such an appropriation. It could not possibly proceed to construct a state aid highway in opposition to the wishes of a community served by it. Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

**The fair consideration of whether or not a proposed state highway would "best serve outlying communities,** connect adjoining towns and villages and facilitate travel in reaching markets, railroad connections and state roads, due consideration being given to cost as well as distance and volume of travel," would be impossible without a hearing and should not be subject to arbitrary decision. Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

**Sec. 43. Contracts for construction of state aid highways.**—The commission shall have full power in the letting of all contracts for the construction of all state aid highways and other work under its jurisdiction, except as elsewhere herein otherwise provided. All of the provisions of section 40 shall apply to this section. (R. S. c. 20, § 24.)

**Stated** in Graffam v. Poland, 115 Me. 375, 99 A. 14.

**Sec. 44. Appropriations by towns desiring state aid.**—If any town desires state aid, as provided by this chapter, for the building or permanent improvement of one or more of its state, or state aid highways, such town may raise and appropriate in addition to the amounts regularly raised and appropriated for the care of ways, highways and bridges the following amounts on account of which state aid shall be paid:

Towns having a valuation of \$200,000 or less may appropriate any amount



not exceeding \$300; towns having a valuation of over \$200,000 and not over \$800,000 may appropriate any amount not exceeding \$533; towns having a valuation of over \$800,000 and not over \$1,000,000 may appropriate an amount not exceeding \$600; and towns having a valuation of over \$1,000,000 and not over \$3,000,000 may appropriate in addition to the sum of \$600 an additional sum of \$66 for each \$200,000 or fraction thereof valuation in excess of \$1,000,000; towns having a valuation of over \$3,000,000 and not over \$4,000,000 may appropriate not exceeding \$1,333; and towns having a valuation of over \$4,000,000 may appropriate in addition to the sum of \$1,333 an additional sum not exceeding \$133 for each additional \$1,000,000 or fraction thereof of additional valuation. (R. S. c. 20, § 25. 1945, c. 128, § 1.)

**Cross reference.**—See § 49, re increase of state aid. 174 A. 43.

**Appropriation must be voluntary.**—The act of a municipality in making an appropriation for the construction of a state aid highway must be voluntary. Rangeley Land Co. v. Farnsworth, 133 Me. 70,

**Applied** in Grindell's Case, 126 Me. 287, 138 A. 66.

**Stated** in Graffam v. Poland, 115 Me. 375, 99 A. 14.

**Cited** in Williams v. Vinalhaven, 123 Me. 505, 124 A. 213.

**Sec. 45. Location of improvements to continue from year to year until whole improvement accomplished or location changed by request of municipal officers.**—The location of the improvement of designated state aid highways each year shall be a continuation of the preceding year's improvement until the entire length of the designated road has been improved or the location changed by the commission upon request of the municipal officers. The municipal officers shall insert in the warrant for each annual town meeting an article calling upon the voters to vote on the question of the appropriation of money necessary to entitle the town to state aid for state or state aid highways for that year in accordance with the provisions of this chapter. If any such town then appropriates money for the purpose of securing state aid as provided in this chapter, the municipal officers shall forthwith notify the commission of the amount so appropriated. The commission shall thereupon finally approve, change or disapprove such action, in whole or in part, as the appropriation and conditions require and shall notify the municipal officers of its action. Towns failing to comply with the provisions hereof shall not be entitled to state aid for the year when such state aid otherwise would be available under the provisions of this section. (R. S. c. 20, § 26. 1945, c. 128, § 2.)

**Stated** in Graffam v. Poland, 115 Me. 375, 99 A. 14.

**Cited** in Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

**Sec. 46. Apportionment to each town.**—The commission, from the fund provided for the improvement of state aid roads, shall to each town which has conformed to the provisions of sections 44 and 45, for each dollar so appropriated, apportion the following amounts: to each town having a valuation of \$200,000, or less, \$3.50 for each dollar appropriated by said town; to each town having a valuation of over \$200,000 and not over \$800,000, \$2 for each dollar appropriated by said town; to each town having a valuation of over \$800,000 and not over \$1,000,000, \$1.75 for each dollar appropriated by said town; to each town having a valuation of over \$1,000,000 and not over \$1,200,000, \$1.55 for each dollar appropriated by said town; to each town having a valuation of over \$1,200,000 and not over \$1,400,000, \$1.35 for each dollar appropriated by said town; to each town having a valuation of over \$1,400,000 and not over \$1,600,000, \$1.20 for each dollar appropriated by said town; to each town having a valuation of over \$1,600,000 and not over \$1,800,000, \$1.10 for each dollar so appropriated by said town; and to each town having a valuation of over \$1,800,000, \$1 for each dollar so appropriated by said town. The money appropriated by towns ap-

plying for state aid as hereinbefore provided, with the amount apportioned by the commission as hereinbefore provided, shall constitute a joint fund for the construction and improvement of the state or state aid highways in such towns. (R. S. c. 20, § 27. 1945, c. 128, § 3. 1953, c. 221.)

**Cross reference.**—See § 49, re increase of state aid.

**Stated in** *Graffam v. Poland*, 115 Me. 375, 99 A. 14.

**Cited in** *Williams v. Vinalhaven*, 123 Me. 505, 124 A. 213; *Grindell's Case*, 126 Me. 287, 138 A. 66; *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Sec. 47. Mileage apportionment of state aid for 3rd class and state aid reconstruction.**—Allotments of state aid for 3rd class and state aid highway reconstruction shall be apportioned to cities and towns in accordance with the number of miles of 3rd and 4th class roads, as defined in section 5, maintained therein. Each city or town apportionment from this fund shall be expended for reconstruction of improved 3rd class highways until all such highways have, as herein provided, been reclassified by the commission as improved state aid highways. In any city or town, no apportionment from this fund shall be expended upon an unimproved section of highway until all sections of improved state aid highways as determined by proper inspection by the commission, within any city or town, have been, in the opinion of the commission, properly reconstructed. The commission shall reclassify as state aid highways all improved sections of designated 3rd class roads, constructed under its supervision, that by inspection, it finds have been properly reconstructed and warrant continued maintenance as improved state aid highways. Third class designations, when no longer considered of public need, may be rescinded by the commission upon request of the municipal officers of any town. (1947, c. 149, § 4.)

**Sec. 48. Construction of state roads in Indian Township.**—The commission shall, each year, set aside from the fund available for the construction of state aid roads the sum of \$1,500, and the same shall be expended for the construction of state roads in Indian Township 2, R. 1. (R. S. c. 20, § 28. 1945, c. 117.)

**Sec. 49. Increase of state aid.**—If any town shall in any single year increase its appropriation for state aid roads to an amount not exceeding 2 times the maximum amount which it may annually appropriate under the provisions of section 44, the commission may, from any balance of said fund for state aid construction, after the appropriations contemplated in section 46 and subject to the provisions of section 52 as to apportionment, appropriate a like increase of state aid, such appropriation shall not deprive the town of its right to the regular annual state aid in other years; the appropriations contemplated by this section shall be united with and become a part of the joint fund referred to in section 46. Towns may, upon petition of the selectmen of the town and approval of the commission, use a portion or all of the state aid joint fund of the town toward the town's share of the cost of construction or reconstruction of bridges under the bridge act.

The provisions of this section shall apply to appropriations made by towns for improvement and construction of state highways under section 44, and to the corresponding apportionments of state aid made under the provisions of section 46 and subject to the provisions of section 52. (R. S. c. 20, § 29. 1945, c. 128, § 4. 1949, c. 18, § 1. 1951, c. 360, § 1. 1953, c. 335, § 1.)

**Sec. 50. State aid reconstruction.**—If any town shall in a single year increase its appropriation for state aid roads to an amount of 4 times the maximum amount which it may annually appropriate under the provisions of section 44 for use only in reconstructing improved state aid highways that are maintained by the state, the commission shall from any balance of said fund for state

aid highways, and subject to the provisions of section 52, apportion a like increase of state aid.

Towns availing themselves of the provisions of this section shall, in the same year, receive no other money under the provisions of sections 44, 46 and 49. (1953, c. 353, § 1.)

**Sec. 51. Additional state aid for reconstruction.**—If any town shall expend a portion or all of its state aid joint fund as provided by sections 44, 46, 49 and 50 for reconstruction of improved state or state aid highways, the commission shall increase its apportionment of state aid by 20% of the state aid joint fund so expended. (1953, c. 335, § 2.)

**Sec. 52. Pro rata reduction of fund for state aid construction.**—If the commission finds that in any year the aggregate appropriations contemplated to be made by it under the provisions of section 46 exceed the amount available therefor in the said fund for state aid construction, the commission shall make a pro rata reduction of the several amounts appropriated by the towns so that the aggregate of the same shall be proportioned to the amount available from said fund as set forth in said section 46, and thereupon the commission shall notify the municipal officers of each town thereby affected and the appropriation to be raised by such town shall be thereby accordingly reduced. (R. S. c. 20, § 30.)

See § 49, re increase of state aid.

**Sec. 53. Towns to pay their shares of joint funds to treasurer of state; exception.**—Payments by towns of their shares of the joint funds herein provided shall be made forthwith to the treasurer of state on requisition by the commission as the work progresses. If any town shall fail to pay its share as above provided and if the amounts due cannot be collected under the provisions of section 13 of chapter 18, the amounts payable by such town to the state under the provisions of this chapter shall be certified by the commission to the state controller, who, if he finds the amounts correct, shall certify them to the treasurer of state, and unless sooner paid they shall be collected and paid in the same manner as any state tax against such town, with interest at 6% per year from the date of certification to the treasurer of state; provided, however, that when mutually agreed upon by the commission and the municipal officers, state aid road construction may be financed by the towns, in which case the amount of state aid as determined by the commission to be due the town as the work progresses, or after completion, shall be paid to the towns on presentation of certificates and supporting vouchers acceptable to the commission and the state controller. (R. S. c. 20, § 31.)

**Cross references.**—See c. 92, § 52, re selectmen as assessors; c. 92, § 70, re warrants for state tax.

**Stated** in part in *Graffam v. Poland*, 115 Me. 287, 138 A. 66.

Mc. 375, 99 A. 14.

**Cited** in *Williams v. Vinalhaven*, 123

Me. 505, 124 A. 213; *Grindell's Case*, 126

**Sec. 54. Joint fund for state aid road construction may be applied to state highways.**—If any town desires that the whole or any portion of said joint fund shall be applied to the construction of a designated state highway within its boundaries, the same may be so applied at the discretion of the commission; but such portion of the state highway constructed in such manner shall still be subject to all the provisions of this chapter relating to state highways. (R. S. c. 20, § 32.)

**Stated** in *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Sec. 55. Joint fund for state aid construction used with town road**

**improvement fund.**—If any town desires that the whole or any portion of the joint fund provided in sections 44 and 46 shall be applied to the construction of unimproved state aid, 3rd class or 4th class highways within its boundaries in combination with the town road improvement fund, the same may be so applied at the discretion of the commission; and all state aid joint funds so transferred shall be expended in accordance with the provisions of sections 60 to 65, inclusive. Roads constructed under the provisions of this section shall be maintained by the towns. (1951, c. 359, § 1.)

**Sec. 56. Surface treating state aid highways.**—The highway commission, each year, shall set aside from the joint fund provided by this chapter for the construction of state aid highways in each town a sufficient amount to provide for the application of bituminous or other suitable surface treatment to each section constructed from said joint fund; provided, however, that the provisions of this section shall not be applicable to any state aid highway which, in the judgment of the commission, does not require such surface treatment. (R. S. c. 20, § 33.)

**Sec. 57. Surface treating improved sections of state aid highways.**—The highway commission may, upon request of the municipal officers of any town, set aside from funds available for the construction of state aid highways in that town any amounts in excess of those contemplated by section 56 for the purpose of the application of bituminous or other suitable surface treatment to improved sections of state aid highways. (R. S. c. 20, § 34.)

#### Special Legislative Appropriations; Construction.

**Sec. 58. Construction from special appropriations.**— In all cases where towns receive special legislative appropriations to be expended on state or state aid highways, said highways shall be constructed in accordance with specifications for state aid highways and shall be maintained in accordance with the provisions of sections 66, 68, and 72. (R. S. c. 20, § 40.)

**Sec. 59. Special resolve appropriations regulated.**— Notwithstanding the provisions of sections 58, 60 to 65, inclusive, 76, 77 and 78, all special road and bridge appropriations shall be expended in accordance with the terms of the resolve appropriating the funds therefor. (R. S. c. 20, § 42. 1949, c. 349, § 28.)

#### Town Road Improvement Fund.

**Sec. 60. Town road improvement fund.**—There is established a special fund to be known as the "town road improvement fund". The legislature shall appropriate for each fiscal year such amounts as it shall deem proper from the general highway fund, but not to exceed 10% of the average annual gross income from the gasoline tax and registration fees for motor vehicles, the average to be that of the preceding 5-year period. (1945, c. 371, § 1.)

**Sec. 61. Towns to receive funds.**—The various towns and unorganized townships in the state shall receive from the fund for the purpose of improving such roads as the municipal officers of the towns shall designate, not less than \$200 and such other amounts as they shall be entitled to, figured on the basis of mileage of unimproved roads, including unimproved sections of state aid roads located within their respective limits as compared with the total amount of mileage of unimproved roads within the state, except that in towns where the fund is unexpendable in the judgment of the highway commission, under the limitations of sections 62 and 63, no apportionment shall be made, and unexpendable balances shall be lapsed into the town road improvement fund. Such designation

and the expenditure of money under the provisions of sections 60 to 65, inclusive, shall be under the supervision and approval of the commission. (1945, c. 371, § 1. 1947, c. 329, § 1. 1951, c. 359, § 2.)

**Sec. 62. Expenditures.**—The expenditures of this fund shall not exceed the sum of \$3,000 in any 1 mile. The various towns shall furnish all local road material, including rocks, sand, gravel, etc., and shall assume and pay any cost or damages arising from any change in location, grade or drainage. (1945, c. 371, § 1. 1947, c. 329, § 2. 1953, c. 329.)

**Sec. 63. Limitation.** — No money from this fund shall be expended on the improved sections of any road which is a part of the federal aid, state, state aid, 3rd class or so-called CCC roads, as it is intended to apply only to the unimproved roads of the state; provided, however, that the above limitation shall not apply to the \$200 referred to in section 61. Any balance unexpended by the towns at the end of any fiscal year shall remain to their credit for use in any other fiscal year to carry out the purposes of sections 60 to 65, inclusive. (1945, c. 371, § 1. 1947, c. 329, § 3.)

**Sec. 64. Purpose.**—It shall be the intent and purpose of sections 60 to 64, inclusive, to set up a fund and a method for more equal distribution of money for unimproved roads than can be had by the present blanket road resolve, so called. (1945, c. 371, § 1.)

**Sec. 65. "Unimproved roads" defined.**—As a basis for allocation and expenditure of funds set up under the provisions of sections 60 to 64, inclusive, the term "unimproved roads" shall mean all town ways in each city, town or unorganized township, except the following:

- I. Highways, streets and ways that have not been accepted by a city or town, or highways, streets and ways within the compact sections of cities or towns;
- II. Roads which have been virtually abandoned and are not being maintained even though they may not have been legally discontinued; or
- III. All improved sections of federal, state, state aid, 3rd class or so-called resolve highways. (1947, c. 329, § 4.)

#### **Maintenance: Highways.**

**Sec. 66. System of maintenance; culverts for abutters.**—The commission shall provide a system of maintenance for all state highways to which section 68 may apply and for all state aid highways to which sections 72 and 73 may apply so that all sections of such highways may be effectually and economically preserved and maintained, in accordance with the best maintenance practice in so far as funds will permit. The provisions of this section do not include snow removal work on state aid highways, 3rd class highways or town ways.

Whenever it is deemed necessary by an abutter on an improved state highway or state aid highway that a culvert be installed to provide an entrance to his property, he shall petition the commission for such an installation and the commission may install the same, provided that the abutter, at his own expense, furnish a culvert satisfactory to the commission. Such culvert shall be thereafter maintained by the commission. (R. S. c. 20, § 43. 1945, c. 127.)

**Sec. 67. Failure of town to pay its portion of snow removal work.**—If any town fails to pay its portion of the cost of snow removal work on its state highways on or before the 1st day of January of the following year, the same shall be collected and paid in the manner provided in section 53, and the

amount so collected from such town shall be added to the fund for maintenance. (R. S., c. 20, § 45. 1949, c. 18, § 2.)

**Maintenance: State Highways. Snow Removal. Secondary Federal Aid Projects. Compact Sections.**

**Sec. 68. Maintenance and snow removal on state highways.**—Improved state highways shall be continually maintained, and the snow removed from such sections of designated state highways as the commission may determine, under the direction and control of the commission at the expense of the state; except that a charge against a town for snow removal work shall be a fixed sum of \$40 per mile per year.

The snow removal work mentioned in this section shall include the plowing of these highways; the erection, maintenance, dismantling and rental of snow fences; and the sanding of icy road surfaces. It shall not include loading and hauling snow from any compact section. The state shall not be liable for accidents while the road surface is covered with snow and ice.

To carry out the provisions of the preceding paragraph the commission is authorized to hire equipment, preferably town owned, arrange contracts and erect or hire buildings for storage purposes. Purchases of necessary equipment or materials shall be made as provided in section 27.

The maintenance provisions of sections 66, 67, 68, 79, 80, 82 and 87 shall not apply to those compact or built up sections of state highway in cities or towns whose population according to the last U. S. census exceeds 5,000 inhabitants, except as hereinafter provided for maintenance of secondary federal aid projects, and the snow removal provisions shall not apply to those compact or built up sections of state highway in cities or towns whose population according to the last U. S. census exceeds 2,000 inhabitants. (R. S. c. 20, § 46. 1945, c. 334, § 2. 1949, c. 18, § 3; c. 349, § 29. 1951, c. 158, § 2.)

Cited in Grindell's Case, 126 Me. 287, 138 A. 66; Rangeley Land Co. v. Farnsworth, 133 Me. 70, 174 A. 43.

**Sec. 69. Secondary federal aid projects on state highways.**—Secondary federal aid projects constructed on the state highway system with funds provided under the provisions of section 7 of the federal act approved June 16, 1936 (Public No. 686-74th Congress), and all acts amendatory thereof and supplementary thereto, shall be maintained by the state highway commission under the same provisions and conditions stated in section 66 for the maintenance of improved state highways; provided, however, that with the exception of snow removal, the provisions and requirements of section 68 shall also apply to secondary federal aid projects constructed on designated state highways within the compact or built up sections of all towns regardless of population. (R. S. c. 20, § 47. 1951, c. 158, § 3.)

**Sec. 70. Maintenance of highways and bridges on Indian Island and in Indian Township.**—The roads and bridge referred to in section 39 shall be maintained by the commission and the expense thereof charged to such funds under the jurisdiction of the commission as are available for the purpose of maintaining state highways. (R. S. c. 20, § 48. 1951, c. 392, § 2.)

**Sec. 71. Towns to maintain state highways in compact or built up sections.**—Except as otherwise provided, all state and state aid highways within compact or built up sections of towns having a population of 5,000 and over, as determined by the commission, shall be maintained in good repair by the town wherein the same are located at the expense of the town and whenever any town

shall neglect so to maintain within 14 days after notice given its municipal officers by the commission, the commission may proceed to make necessary repairs to such way, which shall be paid for by the state and the cost thereof shall be collected and paid as provided in section 53; and the amounts so collected from such towns shall be added to the fund for maintenance of state and state aid highways. The commission may in respect thereto grant such towns such financial assistance as it deems advisable. (R. S. c. 20, § 49. 1951, c. 158, § 4. 1953, c. 353, § 2.)

### **Maintenance: State Aid Highways. Secondary Federal Aid Roads.**

**Sec. 72. Maintenance of state aid highways.** — Improved state aid highways shall be continually maintained under the direction and control of the commission at the expense of the state. The provisions of this section shall apply only to those state aid highways constructed and improved by the state under the provisions of this chapter, except as hereinafter provided for the maintenance of secondary federal aid roads, and to such other portions of designated state aid highways, to the improvement of which the state has heretofore contributed, as the commission may hereafter indicate as taken over by it, and the commission shall as rapidly as it deems advisable so take over such highways for the purpose of maintenance as herein provided. (R. S. c. 20, § 50. 1945, c. 334, § 3. 1949, c. 18, § 4.)

**Cross reference.**—See note to c. 50, § 19.

**The control granted to the commission is no more complete in its effect than that which was previously lodged in the municipalities** by the provisions of c. 27, R. S. 1930. It was the apparent purpose of the legislature to transfer from the town to the commission the control of those roads that should become state aid highways, that previously had been invested in the municipalities. It is true that § 27 provides that "The commission may from

time to time make and shall enforce rules and regulations relating to construction and maintenance of all state and state aid highways." But this adds nothing to what the municipalities could do previous to the enactment of this chapter. *Larson v. New England Tel. & Tel. Co.*, 141 Me. 326, 44 A. (2d) 1.

**Cited in** *Grindell's Case*, 126 Me. 287, 138 A. 66; *Rangeley Land Co. v. Farnsworth*, 133 Me. 70, 174 A. 43.

**Sec. 73. Maintenance of secondary federal aid roads.**—All state aid highways improved with funds provided under the provisions of section 7 of the federal act approved June 16, 1936, (Public No. 686-74th Congress), and all acts amendatory thereof and supplementary thereto, for the construction of secondary or federal roads, except improved secondary federal projects on the state highway system as defined in section 5, shall be maintained by the state highway commission under the same provisions as hereinbefore stated in this chapter for the maintenance of state aid roads. (R. S. c. 20, § 51.)

### **Maintenance: Third Class Highways.**

**Sec. 74. Maintenance of 3rd class highways.**—Roads which have been constructed on 3rd class highways shall be suitably maintained and bushes cut and removed by the several towns until such roads shall be reclassified and accepted by the commission for maintenance under the provisions for maintaining state and state aid highways. Any town which fails to maintain its improved 3rd class highways in any year in a manner acceptable to the commission shall not be entitled to an apportionment from the fund for 3rd class highway reconstruction in the succeeding year. (R. S. c. 20, § 52. 1947, c. 149, § 2.)

**Sec. 75. Maintenance of 3rd class highways improved with secondary federal aid highway funds.**—Third class highways improved with sec-

ondary federal aid highway funds shall be maintained in the same manner as 2nd class roads. (R. S. c. 20, § 53.)

#### **Maintenance: Highways Constructed with Special Appropriations.**

**Sec. 76. Maintenance of state and state aid highways constructed with special appropriations.**—In all cases where towns receive special legislative appropriations to be expended on state or state aid highways, said highways shall be maintained in accordance with the provisions for the maintenance of state and state aid highways. (R. S. c. 20, § 54.)

**Sec. 77. Town maintenance appropriations supervised.** — Expenditure of all appropriations by towns for maintenance of 3rd class roads upon which special legislative appropriations have been expended shall be under the direction and supervision of the state highway commission. (R. S. c. 20, § 56.)

**Sec. 78. Maintenance of town ways constructed from special appropriations.**—In all cases where towns receive special legislative appropriations to be expended on town ways not designated as state, state aid or 3rd class highways, said ways shall be suitably maintained by the several towns under penalty of forfeiture of the right of the town to receive future legislative appropriations. (R. S. c. 20, § 57. 1947, c. 149, § 3.)

#### **Snow Removal.**

**Sec. 79. Winter routes cleared of snow.**—The commission on petition of the municipal officers of two or more towns through which extends a continuous state aid highway, 3rd class highway or town way may from year to year lay out winter routes over such state aid highways, 3rd class highways or town ways as in their judgment seem advisable for the clearance of snow therefrom for the reasonable use of motor vehicles, sleighs and sleds during such season. The commission may take similar action upon petition of the municipal officers of any town with respect to any other state aid highways, 3rd class highways or town ways. Except as hereinafter provided all snow removal petitions are to be received in the office of the commission on or before December 1 previous to any season's work.

It is further provided that petitions already, or in the future, received from the municipal officers and approved by the highway commission covering state aid highways, 3rd class highways and town ways shall be effective until the commission shall have received and approved written recommendations from said municipal officers of proposed changes. Such changes, which shall include any additions, discontinuances or corrections, shall be made to the commission in writing on or before December 1 previous to any season's work. (R. S. c. 20, § 58.)

**Sec. 80. Towns to keep such routes clear of snow; sanding.**—Towns through which extends such a system of winter routes approved and accepted by the commission in accordance with the provisions of section 79 shall, through and by their board of municipal officers, keep said state aid highways, 3rd class highways and town ways cleared of snow during the winter season or such part of the year as the highway commission may direct, so that they may be reasonably usable by motor vehicles, sleighs and sleds. Snow on such state aid highways, 3rd class highways and town ways shall be removed to the outside edges of the shoulders of the road, and in a manner satisfactory to the highway commission whose judgment thereon shall be final. The towns shall sand the aforementioned state aid highways, 3rd class highways and town ways to the satisfaction of the highway commission, and in case the towns fail to sand the highways to the satisfaction



of the highway commission, the said commission shall be authorized to make arrangements for the proper sanding and the cost of such sanding done by the highway commission shall be paid by the towns and the state shall reimburse the towns on the same basis as other snow removal and sanding accounts. (R. S. c. 20, § 59. 1945, c. 332, § 1.)

**Sec. 81. Towns authorized to raise money.**—To carry into effect the foregoing requirements set forth in sections 79 and 80, towns are authorized to raise and appropriate money therefor. (R. S. c. 20, § 60.)

**Sec. 82. Towns to be reimbursed; snow fences; appeal.** — Towns, organized plantations and unincorporated townships, having a valuation of \$200,000 or more which clear 2nd and 3rd class highways and town ways to the satisfaction of the commission and when necessary apply sand, gravel or other materials to a width of not less than 7 feet through the center of road within a reasonable length of time after surface of the road becomes slippery, shall be reimbursed for the cost thereof to the extent of \$65 per mile on the highways or town ways designated as provided in section 79.

Towns, organized plantations and unincorporated townships having a valuation of less than \$200,000 which clear said highways and town ways to the satisfaction of said commission, and when necessary apply sand, gravel or other materials to a width of not less than 7 feet through the center of the road within a reasonable length of time after surface of the road becomes slippery, on the highways and town ways designated as provided in section 79 shall bear 50% of the cost thereof not to exceed \$35 per mile and reimbursement shall be made to said towns, plantations and townships accordingly.

The state or the town shall not be liable for accidents while the road surface is covered with snow or ice.

All payrolls for the season's snow removal work, on routes designated in section 79, are to be received at the office of the commission monthly, on or before the 15th day of each month, and a final payroll on or before May 1st, following the winter in which this work is done. The provisions of this paragraph shall not apply to towns, organized plantations and unincorporated townships having a valuation of \$200,000 or more.

The commission, the county commissioners or the municipal officers of any city or town may provide snow guards or snow fences along any state highways, state aid highways, 3rd class highways or town ways for the prevention of snow from encumbering such highways or town ways.

Said officials likewise shall have authority also to erect such snow guards or fences upon private property adjacent to such highways or town ways; if they do not agree with the owner of such property with relation to the location of such guards or fences, the compensation to be paid such owner, or the time the same shall be maintained, then such officials, before erecting such snow guards or snow fences upon such private property, shall give written notice of their intentions to be posted for 7 days in 2 public places in the city or town in the vicinity of the location proposed for the erection of the same, describing such location and the time intended for the maintenance of such snow guards or fences, with such definiteness that such location may be understood readily.

Within 5 days after a hearing thereon, such officials shall make a written return of their proceedings and findings to the registry of deeds in the county in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained thereon permanently, or to the clerk of such city or town in which such location is situated, provided they have therein decreed that such snow guards or snow fences shall be maintained during the winter season only for which they propose to erect same; in said return they shall state the amount of damages awarded such owner and the same shall

be paid within 30 days after said return, by the state, city or town whose officials have authorized the construction or erection of such guards or fences.

In case the owner of such property is aggrieved with the award of damages so made, or with any part of such decrees, within 20 days after the filing of said return, he may take an appeal therefrom by filing in the superior court in the county where such guard or fence is located a petition requesting a new award or assessment of damages, and the court, after ordering such notice as it sees fit, shall thereupon determine the amount of damages sustained by said owners. The court may make any other change in the decree deemed proper. An appeal to the superior court vacates the original award.

If said officials determine that such fences are to remain for the winter season only, and not permanently, then the same shall be erected not before the 15th day of November nor remain occupying such private property later than April 1st next following; particular regard shall be exercised in the location of said fences so that the owners of private property shall be incommoded as to view and otherwise to as small a degree as possible. (R. S. c. 20, § 61. 1945, c. 332, § 2. 1953, c. 340, §§ 1, 2.)

**Sec. 83. Snow removal discontinued on certain highways.** — The commission may at any time for cause discontinue the clearance of snow in whole or in part from any highway or town way laid out as provided in section 79. (R. S. c. 20, § 62.)

**Sec. 84. Certain roads kept open by state and expense deducted from moneys due town.**—When any town upon any of the winter routes designated and supervised by the commission under the provisions of this chapter shall, in the judgment of the commission, unreasonably fail to either raise, appropriate or pay its proportional part of the cost of snow removal through or in said town, or shall without cause fail to assist in keeping open any highway or town way as designated in section 79 in said town, the commission shall cause said highway or town way through or in said town to be kept open at the expense of the state; and the commission may in case of emergency in such towns which fail to provide equipment on a road designated by the commission in accordance with the provisions of section 79 provide such equipment to remove the snow for the season; and the treasurer of state may withhold a sufficient amount from any funds due or to become due said town, to cover the payment in whole or in part of said proportional expense of said snow removal through or in said town and to apply the sums so withheld to the cost of such snow removal. (R. S. c. 20, § 63.)

**Sec. 85. Towns not reimbursed for snow removal in compact or built up sections.**—The state shall not grant reimbursement to towns for the removal of snow as provided in sections 79 to 87, inclusive, upon highways or town ways in compact or built up sections. (R. S. c. 20, § 64. 1951, c. 158, § 5.)

**Sec. 86. Rental price for snow removal equipment; reimbursement.**—The commission each season shall make a rental price per hour for all snow removal motor equipment which shall be approved by them as being adequate and economical for this work. All contracts with the towns, either by the mile or otherwise, shall be subject to the approval of the commission. Reimbursement on this work shall be made for use of motor driven equipment only. (R. S. c. 20, § 65.)

**Sec. 87. Ways acceptable for snow removal.**—No way shall be acceptable for snow removal work the width of which is less than 14 feet measured between the outside edges of the two shoulders of the road. (R. S. c. 20, § 66.)

**Sec. 88. Towns not relieved from obligations relating to snow blockade.**—No town in which a state or state aid highway lies shall be relieved from

any obligations of statute relating to ways blocked or encumbered with snow, anything to the contrary elsewhere in this chapter notwithstanding. (R. S. c. 20, § 67.)

#### Installations.

**Sec. 89. Installations in state or state aid highways forbidden.**—No person shall install, erect or construct, or cause to be installed, erected or constructed any such installations as buildings, gasoline pumps or other fixtures in or upon any state or state aid highway or within 33 feet of the center line of said highway; and such state or state aid highway shall be deemed the full width of the right of way as laid out by the state, the county or the town. This paragraph shall not apply to the installations or other property devoted to the public use of any public utility or district or to underground pipe lines or to the installations or other property now in existence.

Any person found guilty of violating the provisions of this section shall be punished by a fine of not less than \$5, nor more than \$500, and whoever after conviction of such violation unlawfully maintains any such installations as buildings, gasoline pumps or other fixtures for 30 days after such conviction may be punished by a further fine of not more than \$50 for each day upon which such installations as buildings, gasoline pumps or other fixtures are maintained. (1949, c. 384. 1951, c. 266, § 17; c. 341.)

#### Warning Signs.

**Sec. 90. Warning signs at grade crossings.**—There shall be placed and thereafter maintained warning signs on every highway or other way within the state approaching a crossing at grade of such highway or other way and the tracks of a railroad. Such signs shall be placed on each side of such crossing at such distances as shall be determined upon by the public utilities commission and the state highway commission which 2 commissions are required, and vested with authority, to cause to be located and maintained such warning signs; provided, however, that in the compact parts of cities and towns where the conditions mentioned in section 80 of chapter 46 exist and are observed and at all other places where in the judgment of the two above-named commissions such signs are unnecessary, no such warning signs need be erected. (R. S. c. 20, § 68.)

See § 93, re jurisdiction and penalty.

**Sec. 91. Locations kept clear so signs visible; obstructions removed.**—The signs referred to in section 90 shall be of such size, design and color as shall be established by an order or orders of the public utilities commission. Such signs shall be placed in conspicuous locations beside the highway at a distance of not less than 300 feet from the nearest rail of such crossing unless local conditions in the judgment of the 2 commissions named in section 90 make it reasonable to cause such signs to be located at a lesser distance from said nearest rail. Such locations shall always be kept clear so that such signs shall be plainly visible, and for this purpose the municipal officers of the several towns in which such signs are located are authorized and required, either upon their own motion or when requested by the public utilities commission or by the state highway commission, from time to time, to cut down, trim or remove all bushes, trees or other obstructions which may impair the view of any such signs. (R. S. c. 20, § 69. 1949, c. 97. 1953, c. 308, § 21.)

See § 93, re jurisdiction and penalty.

**Sec. 92. Expense by state.**—The expense of the erection and maintenance of each warning sign mentioned in sections 90 and 91 shall be borne by the

state and paid out of any highway funds not otherwise appropriated. (R. S. c. 20, § 70. 1945, c. 293, § 2. 1949, c. 349, § 30.)

**Sec. 93. Penalties; jurisdiction.**—Whoever unlawfully removes, injures or tampers with any warning, caution or directional sign, described in sections 16, 90 and 91, shall be punished by a fine of not less than \$10, nor more than \$50. Trial justices shall have jurisdiction of any offense committed under sections 16, and 90 to 93, inclusive, of this chapter, and section 152 of chapter 22 when the same is not of a high or aggravated nature. (R. S. c. 20, § 71. 1953, c. 308, § 22.)

### Roadside Improvement.

**Sec. 94. Planting.**—The state highway commission may, subject to the consent of abutting land owners, cause or allow grasses, shrubs, vines and trees to be planted and maintained along state and state aid highways, to be paid for as part of the cost of construction and maintenance of highways; this cost not to exceed \$1,500 per year. (R. S. c. 20, § 72.)

**Sec. 95. Contracts.**—The state highway commission may enter into agreements with individuals or organizations who wish to plant grasses, vines, trees or flowers; or to make gifts or appropriations to carry out the provisions of sections 94 to 96, inclusive. (R. S. c. 20, § 73.)

**Sec. 96. Not to obstruct view of advertising panels.**—The provisions of sections 94 to 96, inclusive, shall not be construed to permit the planting of trees, grasses, shrubs, vines or flowers in any manner so as to prevent passers-by from having a clear and unobstructed view of any outdoor advertising panel. (R. S. c. 20, § 74.)

**Sec. 97. Construction and maintenance of picnic areas, etc.** — The commission is authorized to construct along state and state aid highways roadside picnic areas, roadside springs, scenic turnouts or other landscaping where in the opinion of the state highway commission it may seem advisable and place distinguishing signs upon the same; and the commission is further authorized to use for the maintenance of the same such funds as are now available for maintenance of state and state aid highways. The cost of constructing any one such project shall not exceed \$600, except that not more than 2 such projects may be constructed in any 1 year at a cost of not more than \$1,000 each. (1951, c. 327, § 1. 1953, c. 153.)

### Parkways and Freeways.

**Sec. 98. Construction of parkways and freeways.** — The governor and council, with the special authorization of the legislature, may direct the commission to lay out and construct any state highway as a parkway or a freeway road. (R. S. c. 20, § 75.)

**Sec. 99. "Parkway" defined.**—Under the provisions of sections 98 to 102, inclusive, a "parkway" shall be any trunk line highway receiving special treatment in landscaping and marginal planting, and which shall be especially designed for and devoted exclusively to the use and accommodation of noncommercial motor vehicle traffic, and to which access may be allowed only at highway intersections designated by the commission and designed by it so as to eliminate cross traffic of vehicles. (R. S. c. 20, § 76.)

**Sec. 100. "Freeway" defined.**—Under the provisions of sections 98 to 102, inclusive, a "freeway" shall be any trunk line highway which shall be designed to separate through-high-speed noncommercial motor vehicle traffic from

commercial, and slow-speed and local noncommercial vehicular traffic by the use of independent traffic lanes; and which shall be designed to restrict the cross traffic of vehicles. (R. S. c. 20, § 77.)

**Sec. 101. Construction of service roads.**—As an adjunct of any parkway or freeway the commission is authorized to lay out and construct roads or drives, hereby designated as service roads, to provide access from areas adjacent to a parkway or freeway, and to provide for the restriction or elimination of cross traffic on such parkway or freeway whenever it, in its discretion, shall deem the same to be necessary in the public interest, by the construction of underpasses and overpasses. (R. S. c. 20, § 78.)

**Sec. 102. Land and rights in land may be purchased or taken.**—The state highway commission is authorized to purchase or take any land or rights in land necessary or required for the lay out, alteration, extension, widening, change of grade or improvement of such parkways, freeways or service roads in the same manner and pursuant to the provisions of the statutes relating to state and state aid highways. All provisions of the statutes relating to state and state aid highways and not inconsistent with the provisions of sections 98 to 102, inclusive, shall apply to such parkways, freeways or service roads. (R. S. c. 20, § 79.)

#### Signs and Town Line Markers.

**Sec. 103. Certain waters and mountains to be designated by markers.**—The commission is authorized and directed to place suitable markers, similar to those used in other states, along the state highways commencing with United States route number 1, designating the names of contiguous rivers, lakes, streams and other bodies of water and adjacent mountains.

The commission is authorized to use any funds available for the construction of state highways and bridges and for the maintenance of the same for carrying out the provisions of this section. (R. S. c. 20, § 80. 1951, c. 86.)

**Sec. 104. Markers for town lines.**—Suitable markers shall be placed by the commission on all trunk line roads and all state aid roads, designating the point of entry and exit to and from the several cities and towns along the lines of said highways.

The cost to the state for carrying out the provisions of this section shall be paid from funds available for the maintenance of state and state aid highways. (R. S. c. 20, § 81. 1951, c. 85.)

**Sec. 105. Guide-posts.**—On all state and state aid highways, all guide-posts shall be of such reasonable form, height and design as the commission shall designate and shall be erected only upon approval of the commission. (1951, c. 321, § 7.)

#### Bridge Construction: State Highways.

**Sec. 106. Bridge construction on state highways.**—The construction, reconstruction and improvement of all bridges on state highways, and all approaches thereto, shall be borne wholly by the state. (R. S. c. 20, § 82.)

**Sec. 107. "State highway" defined.**—For the purposes of this and the preceding section, state highways are defined to be those highways that have been and may in the future be so designated by the commission, in accordance with section 5. (R. S. c. 20, § 83.)

### Bridge Construction: State Aid and Third Class Roads.

**Cross Reference.**—See c. 96, § 69, re bridges crossing town lines.

**“Bridge” includes approaches.** — The word “bridge” means not only the structure itself but includes its approaches, as well as its abutments and bankments. *Starrett v. Thomaston*, 126 Me. 205, 137 A. 67.

The term “bridge” includes not only the

structure spanning the chasm over which it is erected but also includes the approaches by which access to the bridge is obtained, such approaches being as much a part of the appendages as the bridge itself. *Starrett v. Thomaston*, 126 Me. 205, 137 A. 67.

**Sec. 108. Cost of construction and rebuilding of certain bridges in towns.**—When the municipal officers of any town or city deem that any bridge on any main thoroughfare must be built or rebuilt, they may petition the commissioners of the county in which said bridge is or may be built or rebuilt, and the commission to meet with them for the purpose of examining into and determining whether public convenience and necessity require the building or rebuilding of said bridge. The petition shall be sent to the commission and upon its receipt said commission shall transmit a copy thereof to the county commissioners referred to above. The commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans and estimates of cost of construction.

The municipal officers of the town or city together with the county commissioners and the commission shall constitute a joint board to determine whether or not the bridge is or may be built on a main thoroughfare, whether or not public convenience and necessity require the building or rebuilding of said bridge and to determine the type of construction and general dimensions; furthermore, this board shall determine the estimated cost of construction. Said board shall keep or cause to be kept a written record of its doings, including its findings as to preliminary facts necessary to its organization and jurisdiction. The decision of said board, or a majority thereof, upon any matter within its jurisdiction shall be final and conclusive and the record of its findings upon all preliminary matters shall be prima facie evidence of the truth thereof. The commission shall appoint the time and place for the meeting of said board and give such notice thereof as it shall deem reasonable and proper.

When the county commissioners of any county deem that any bridge on any main thoroughfare in any unorganized township in said county must be built or rebuilt or deem that any bridge owned and maintained wholly by said county on any main thoroughfare in any town or organized plantation must be rebuilt, they may petition the commission for the purpose of forming a joint board composed of said county commissioners and the commission. The joint board shall possess all the powers and prerogatives of joint boards constituted as described in the 2nd paragraph of this section. The commission shall make such surveys and investigations as it may deem important and necessary for the preparation of survey plans and estimates of cost of construction, and shall appoint the time and place for the meeting of said board and give such notice thereof as it shall deem reasonable and proper.

When the commission shall deem that any bridge on any state aid or 3rd class highways must be built or rebuilt, it may notify the municipal officers of the town or city, or the county commissioners having jurisdiction of the roads in any unorganized township in which said bridge is located or may be built, and the county commissioners of the county in which said bridge is located or may be built or rebuilt, to meet with it for the purpose of forming a joint board possessing the same powers and prerogatives as a joint board formed in response to a petition emanating from the municipal officers of a town or city. The commission shall make such surveys and investigations as it may deem important

and necessary for the preparation of survey plans and estimates of cost. On each question arising in all meetings of joint boards, each component body shall have 1 vote and its vote shall be recorded in the records of the meetings. (R. S. c. 20, § 84.)

**Under this section, the proposed bridge must be on a main thoroughfare.** Bullard v. Allen, 124 Me. 251, 127 A. 722.

**Determination of what constitutes "main thoroughfare."**—The legislature has not given to any person or commission the exclusive power to define the expression "main thoroughfare," nor is the classification of roads by the state highway commission under § 5 declared to be conclusive, and subject to no amendment, regardless of changes in any environment caused by growth in population, or development of localities by reason of natural resources, or tourist attractions. Plainly, some tribunal must decide the question as to whether a way is a main thoroughfare before a state and county aid bridge can be built thereon. The statute requires the board, or joint commission, to determine whether public convenience and necessity require the building or rebuilding of the bridge, and the decision of said board, or a majority thereof, upon any matter within its jurisdiction, shall be final and conclusive, and the record of its findings upon all preliminary matters shall be prima facie evidence of the truth thereof. One of the elements of public convenience and necessity is whether the way, on which such bridge is to be built, is so situated and supports such an amount

of travel as to make it a main thoroughfare. With all conditions open to their observation and study, at the time of their conference, who could better decide whether the way is a main thoroughfare than this board or joint commission? To whom or to what tribunal can they go, because of any statutory provision, for a decision of the question? One of the questions, interlocked with that of public convenience and necessity, which the board or joint commission may and generally must decide is whether the proposed bridge is on a main thoroughfare. Their decision is final and conclusive as to public convenience and necessity, and the record of their findings upon all preliminary matters is prima facie evidence of the truth thereof. Bullard v. Allen, 124 Me. 251, 127 A. 722.

The question of main thoroughfare does not depend alone on the classification of highways made by the state highway commission under § 5. Bullard v. Allen, 124 Me. 251, 127 A. 722.

**Applied** in Starrett v. State Highway Comm., 126 Me. 205, 137 A. 67; Kerr v. State, 127 Me. 142, 142 A. 197.

**Cited** in Crabtree v. Ayer, 122 Me. 18, 118 A. 790; Starrett v. Thomaston, 129 Me. 132, 150 A. 609.

**Sec. 109. Apportionment of cost.**—The cost of construction of a bridge built or rebuilt under the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall be divided as follows: when the cost of said construction makes a tax rate of 5 mills or less on the valuation of the town last made by the state tax assessor, 45% by the town, 30% by the county in which said town is located and 25% by the state; when the tax rate determined as above is 10 mills, the cost shall be borne as follows: 40% by the town, 30% by the county and 30% by the state; when the tax rate determined as above is 15 mills, the cost shall be borne as follows: 35% by the town, 30% by the county and 35% by the state; when the tax rate determined as above is 20 mills, the cost shall be borne as follows: 30% by the town, 30% by the county and 40% by the state; when the tax rate determined as above is 30 mills, the cost shall be borne as follows: 25% by the town, 30% by the county and 45% by the state; when the tax rate determined as above is 40 mills, the cost shall be borne as follows: 20% by the town, 30% by the county and 50% by the state; when the tax rate determined as above is 60 mills, the cost shall be borne as follows: 15% by the town, 30% by the county and 55% by the state; when the tax rate determined as above is 80 mills, the cost shall be borne as follows: 12% by the town, 30% by the county and 58% by the state; when the tax rate determined as above is 100 mills, the cost shall be borne as follows: 10% by the town, 30% by the county and 60% by the state. For intermediate tax rates the percentage of cost to be borne by the town and state shall be proportional, computed to the nearest

tenth of 1%. When the tax rate determined as above is over 100 mills, the town shall pay a fixed sum, equivalent to 1% of its state valuation, the county 30% of the cost of construction and the state the balance. The cost of reconstruction of a bridge owned and maintained wholly by the county, but located in a town or organized plantation, shall be borne as follows: 50% by the county and 50% by the state.

In the event of two or more bridges being built or rebuilt simultaneously or practically so, in the same town, the basis for computing the tax rate applicable and used in determining the apportionment of cost to be borne by the state and the town shall be the total cost of each bridge as a separate unit, and the apportionments shall be determined and assessed separately for each bridge. The cost of construction shall include the complete cost of the bridge proper and such embankments, surfacing and other work as is necessary to provide proper, adequate and safe approaches to the bridge; the maintenance of traffic by temporary detours and structures whenever existing highways cannot satisfactorily be used for such service; and such charges for engineering, advertising and inspection as may be incurred in the preliminary and actual construction phases of the work.

Unless otherwise expressed or implied, wherever the word "town" occurs in sections 108 to 115, inclusive, section 118 and sections 120 to 122, inclusive, it shall mean to include towns, cities, organized plantations and unorganized townships.

The words "main thoroughfare" as used in sections 108 to 115, inclusive, section 118, and sections 120 to 122, inclusive, shall mean only such state aid highways and 3rd class highways as have been so designated, determined and accepted by the commission to receive aid from the state as provided by law, and the word "bridge" shall mean only such a structure as shall require a span of 10 or more feet between the faces of the abutments thereof. (R. S. c. 20, § 85.)

**Stated** in *Starrett v. State Highway*  
Comm., 126 Me. 205, 137 A. 67.

**Sec. 110. Plans and specifications, award of contracts, requisition of amounts due from town and county; advertising; bidding; bonds; money how raised.**—The commission shall prepare all engineering plans and specifications for materials, construction and workmanship which it considers necessary for the complete construction of the bridge structure, approaches and for maintenance of traffic and, as soon as practicable after being advised that the municipal officers are authorized to raise the town's share of the estimated cost of such construction, shall requisition the county and city or town for their respective portions of the estimated cost of construction as provided in section 109, and except as otherwise provided in this section, advertise for bids for the construction of the bridge in 2 or more public newspapers printed wholly or in part in the state, also in 1 public newspaper printed wholly or in part in the county in which the proposed work is to be done, if any such newspaper is so printed in such county; such advertisement shall state the place where the bidders may examine or obtain the plans and specifications, and the time and place where the bids for such work will be received by the commission. Each bidder must accompany his bid with a certified check, payable to the treasurer of state, for an amount which the commission considers sufficient to guarantee that if the work is awarded to him he will contract with the commission for its due execution; such checks shall be returned to the respective unsuccessful bidders. The check of the successful bidder shall be returned to him upon the execution and delivery to the commission of his contract and his bond with sufficient sureties, in terms satisfactory to the commission for the due execution of such work. All bids so submitted shall be publicly opened, read and posted at the time and place stated in such advertisement. The commission shall have the right to reject any and



all bids if in its opinion good cause exists therefor, but otherwise it shall award the contract to the lowest responsible bidder. Any town may submit bids for bridge construction within its limits and shall be subject to all requirements prescribed for other contractors, except that no bond need be required of it. The commission may provide for the construction of the bridge on a day labor basis, or with approval of the governor and council, by contract without advertising for bids. The commission shall have full power in all matters relating to the furnishing of bonds by the successful bidders for the completion of their work and fulfilling of their contracts. These bonds shall protect fully the state, county and town from all liability arising from damage or injury to persons or property as a result of the contractor's operations. The county commissioners of any county where a bridge is built or rebuilt in any unorganized township are authorized and required to assess upon said township such sums as may be required to build or rebuild said bridge according to the last state valuation. This expense shall be added to their assessment on said township for repairs authorized by section 65 of chapter 89, which assessment shall create a lien upon said township for the amount thereof as effectually as is now provided in relation to repairs on county roads. The portion of such expense to be assessed in any one year shall be determined by the county commissioners, but in no case shall the total expense be distributed over a period of more than 5 years. That portion of said assessment which is for building or rebuilding said bridge as aforesaid shall be set down in the assessment in distinct items in a separate column and shall be enforced as is provided in section 66 of chapter 89.

The county commissioners and municipal officers of cities heretofore referred to are authorized and required to raise by taxation or by borrowing or otherwise, such reasonable sums as may be necessary to carry out the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, and the municipal officers of towns, when authorized by a vote at a legal town meeting, are also required to raise by taxation or by borrowing or otherwise such like sums as may be necessary to carry out the provisions of said sections. Any loan so made by the county commissioners or municipal officers shall be a legal debt of the county or town whose credit is pledged under this law. All loans made by the county commissioners under this law are excepted from the provisions of the laws of the state limiting the borrowing capacity of counties. Provided, however, that all loans made by the county commissioners and municipal officers under this law shall mature in not more than 20 years, and not less than 1/20 of any loan so made shall be raised by taxation and applied in payment of the loan each year after the loan is made. (R. S. c. 20, § 86.)

**What constitutes "approach."** — Approaches to a bridge are whatever is necessary to connect the bridge with the public roads or streets, either at the end thereof, or to make such roads or streets conform to the grade of the bridge. *Starrett v. Thomaston*, 126 Me. 205, 137 A. 67.

**Effect of provision giving highway engineer final say as to quality, etc., of work.** — A provision in a building contract made by the state that the chief engineer of the state highway commission or his assistant shall have supervision of the work during progress, and that the decision of the chief engineer as to the quality or sufficiency

and the quantities of performance and other practical questions in the execution of the contract shall be final and conclusive is valid and binding, subject to the limitation that the law writes into a provision of such nature that the engineer must exercise his honest judgment. *Kerr v. State*, 127 Me. 142, 142 A. 197.

**Commission may require bond.** — The highway commission has, by this section, and from the necessities of the case, the authority to require a bond, binding principal and surety to payment of proper bills for materials and labor. *Foster v. Kerr & Houston*, 133 Me. 389, 179 A. 297.

**Sec. 111. Construction supervised; statement of cost rendered; salvaged material; failure of county or town to pay proportional cost.**

—The commission shall have supervision of all construction work and no pay-

ment shall be made on account of any of said work except by voucher approved by said commission. On completion of any bridge the commission shall render an itemized statement of the complete cost of the construction to the town or towns and the county or counties interested and to the treasurer of state. If there remain unexpended balances of the moneys advanced by the town or towns and the county or counties, they shall be immediately returned. If the cost of construction has exceeded the estimated cost, the town or towns and the county or counties interested shall forthwith, on receipt of said itemized statement, forward to the treasurer of state their proportional shares of such additional cost.

Any material salvaged from an existing structure rebuilt under the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall be the property of the town or towns in which the bridge is located, providing the town or towns use such material for the construction or repair of other bridge structures; otherwise the commission may dispose of the material in any manner it deems proper, crediting any amount received from the sale thereof to the joint fund for the construction of the bridge.

In case any county or town unreasonably neglects or refuses to pay into the state treasury its proportional part of the estimated cost of construction which may be due and payable under the provisions of the said sections or its proportional part of the excess cost of construction above the estimated cost, then the treasurer of state shall, out of any funds in the state treasury due said county or town, pay such proportional part and deduct the amount so paid from any sum in the state treasury due said county or town. In case such funds due or to become due any town or county from the state treasury in any 1 year do not equal or exceed the town's or county's share of either the estimated cost or the actual cost of a bridge, the construction of which is provided for under the terms of the said sections, then an action of debt in the name of the treasurer of state may be maintained against such delinquent county or town to recover any sum so due the state, but these remedies shall be in addition to, and not exclusive of, other remedies afforded by law for the proper enforcement of the provisions of said sections. (R. S. c. 20, § 87.)

**Applied** in *Starrett v. State Highway Comm.*, 126 Me. 205, 137 A. 67.

**Sec. 112. Provisions of certain sections apply when bridge crosses boundary lines of towns or counties; joint board; apportionment of costs.**—When a bridge is to be built or rebuilt under the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, which bridge crosses the boundary line between 2 or more towns, in the same or different counties, all the provisions of said sections shall apply to each or all towns and to the county or counties involved. In such cases the municipal officers of each of said towns and the commissioners of the county or counties shall sit upon the board provided for in section 108. Notice of complete cost of construction shall be forwarded to each town and each county involved. The proportional parts of the cost borne by the towns or by the counties under the provisions of section 109 shall be apportioned between said towns and between said counties in proportion to their valuations last made by the state tax assessor. (R. S. c. 20, § 88.)

**Sec. 113. Not more than 2 bridges shall be built or rebuilt in 1 town in 1 year unless emergency exists.**—Under the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, not more than 2 bridges may be built or rebuilt in any one town in any one calendar year, except when in the unanimous judgment of the joint board an emergency exists and public necessity and safety require the immediate building or rebuilding of the bridge petitioned for. (R. S. c. 20, § 89.)

**Sec. 114. State not liable for damages; caution signs to be posted when temporary structures are erected.**—The state shall not be liable to any person or corporation for damages arising from the construction or rebuilding, or improvement of any bridge built or rebuilt under the terms of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive.

Whenever temporary means are provided for the transfer of traffic over or around a bridge site, the commission shall erect, or cause to be erected, caution signs to be conspicuously placed at each end of the construction work and at distances of 200 to 500 feet therefrom whenever possible. These signs shall display the following words: "Bridge under Construction. Pass at your risk. Maine State Highway Commission". The commission may display signs, in conjunction with the warning signs, limiting the gross loads to be transferred over temporary structures and detours to such weight as it deems necessary for the safety of life or property. Nothing contained in the said sections shall be construed as affecting existing liability for the repair of any bridge or damages sustained by reason of neglect or want of repair of any bridge. (R. S. c. 20, § 90.)

**Applied** in *Starrett v. State Highway Comm.*, 126 Me. 205, 137 A. 67.

**Sec. 115. Exceptions.**—Sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall not be construed as applying to or including any interstate or international bridge or bridges. (R. S. c. 20, § 91.)

**Sec. 116. Reconstruction of intrastate bridges.** — The commission shall have authority to reconstruct any intrastate bridge wholly under the control of the state when, in its opinion, such reconstruction is necessary, and the cost of the work shall be paid from any funds available for the construction of intrastate bridges. (R. S. c. 20, § 92.)

#### **Bridge Maintenance: State Highways.**

**Sec. 117. Maintenance of bridges on state highways.**—The cost of maintenance of all bridges on state highways, and all approaches thereto, shall be borne wholly by the state. (R. S. c. 20, § 93.)

#### **Bridge Maintenance: State Aid and Third Class Roads.**

**Sec. 118. Maintenance of bridges built or rebuilt.**—All costs of maintenance of bridges built or rebuilt under the provisions of sections 108 to 116, inclusive, and sections 120 to 122, inclusive, shall be borne entirely by the state. The provisions of this section shall also apply to the maintenance of the bridge between Machiasport and East Machias. (R. S. c. 20, § 94. 1947, c. 365.)

See c. 96, § 69, re bridges crossing town lines.

#### **Maintenance of International and Interstate Bridges.**

**Sec. 119. Maintenance of international and interstate bridges.** — The state of Maine portion of international and interstate bridges, and approaches thereto, constructed in part with state funds shall be maintained by the state. (R. S. c. 20, § 95.)

#### **Bridges.**

##### **Miscellaneous Provisions.**

**Cross Reference.**—See c. 96, § 69, re bridges crossing town lines.

**Sec. 120. Existing contracts, judgments and decisions not affected.**—Nothing contained in sections 106 to 116, inclusive, section 118 and sections

120 to 122, inclusive, shall invalidate any existing contract, judgment or decision of any tribunal whereby any bridge is wholly or partly kept in repair or any money is contributed or to be contributed for the purpose of construction or maintenance of any bridge by any individual, firm or corporation. (R. S. c. 20, § 96.)

**Sec. 121. Proceedings.**—All legal proceedings necessary to carry out any provisions of sections 106 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall be had under the general statute. (R. S. c. 20, § 97.)

**Sec. 122. Personnel paid from bridge funds.**—Salaries and expenses of personnel employed under the provisions of section 4 for the purpose of carrying out the provisions of sections 108 to 116, inclusive, section 118 and sections 120 to 122, inclusive, shall be paid from any moneys appropriated by the legislature for the purposes of said sections. (R. S. c. 20, § 98.)

### **Wire Lines and Pipe Lines to International and Interstate Bridges.**

**Sec. 123. Affixing of wire lines, cable lines and pipe lines to international and interstate bridges.**—The commission shall have the power, upon such terms and conditions as it shall determine, to authorize and permit persons, firms or corporations to construct on, or to affix to, that part of any international or interstate bridge lying within the boundaries of this state and which is under the supervision of the commission, such pole and wire lines, cable lines or pipe lines, as it shall determine will not interfere with public safety or with the convenient use of such bridge by the public. Provided, however, that wire or cable lines so constructed or affixed shall not be used for transmitting electricity without the borders of the state for the purposes of furnishing light, heat or power. (R. S. c. 20, § 99.)

**Sec. 124. Application, plans and descriptions filed; commission to investigate and report.**—Whenever any person, firm or corporation shall desire to construct on, or to affix to, any international or interstate bridge any such pole and wire line, cable line or pipe line as described in the preceding section, application shall be filed with the commission setting forth in detail, and accompanied by plans on an appropriate scale, a description of, and the specifications for, the proposed line and the purpose thereof, and after receipt thereof said commission shall investigate as to the engineering and similar features of the proposed construction to determine whether or not the proposed line will, or in the future may, interfere with public safety or with the convenient use of said bridge by the public; during the course of its investigation the commission may call upon the applicant for such additional data and information as it deems necessary in the proper completion of its investigation. (R. S. c. 20, § 100.)

**Sec. 125. Public hearing; notices and procedure; rules.**—After proper investigation the commission shall set a date for public hearing on the application required by the preceding section, which date shall be not more than 60 days after the filing of the application, shall give notice by publication in such newspapers as it shall designate, and such other notice as it may determine necessary in any particular case, at least 14 days prior to the date set for such hearing. Rules for procedure at such hearings may be determined from time to time by the commission. (R. S. c. 20, § 101.)

**Sec. 126. Decision within 30 days; application granted upon terms; right exercised within 2 years; term limitation of permit.**—Decision on the application required by section 124 shall be rendered by the commission within 30 days after the hearing is closed. The commission may grant the application

as filed, or may refuse to grant the same, or may grant the application in part only, but if the application is granted in full or in part, the commission may attach thereto such terms and conditions as it deems necessary to protect the public interest in the safe and convenient use of such bridge. If any authority granted by the commission is not exercised within 2 years from the date thereof, the same shall be deemed to have expired and may not thereafter be exercised except upon further and subsequent authority from said commission. Any authorization made or permit granted under the provisions of sections 123 to 126, inclusive, shall be limited to a term not exceeding 50 years from the date of such authorization or grant. (R. S. c. 20, § 102.)

### **State Highway and Bridge Bonds.**

**Sec. 127. State highway bonds and state highway and bridge bonds; proceeds; how expended; appropriation.**—The treasurer of state by direction of the governor and council shall negotiate the sale of all state highway bonds and state highway and bridge bonds; none of such bonds shall be sold for less than par value, nor shall any such bond be loaned, pledged or hypothecated in behalf of the state. The proceeds of the sales of such bonds shall be held by the treasurer of state and paid by him upon proper warrants drawn for the purposes of this chapter. The commission shall apportion the money raised from the sale of state highway and state highway and bridge bonds in such manner as will carry into effect the provisions of the several acts authorizing such bond issues and conform to the constitution and the provisions of this chapter. (R. S. c. 20, § 103.)

**Sec. 128. Appeal to governor and council.**—If at any time the commission cannot unanimously agree upon the proper exercise of its power to direct the expenditure of all moneys for construction and maintenance of all state and state aid highways as provided in section 27 or upon the proper apportionment of money raised from the sale of state highway and state highway and bridge bonds in accordance with the provisions of section 127, any member of the commission should he deem the matter of sufficient importance may appeal to the governor and council who shall then make the final decision relative to the particular expenditure or apportionment concerning which the commission cannot agree. (R. S. c. 20, § 104.)

### **Economic Advisory Board.**

**Sec. 129. Economic advisory board; membership; compensation.**—An economic advisory board, as heretofore established, shall consist of 7 members, as follows: the governor, who shall serve ex officio and as chairman, the commissioner of finance and administration, who shall serve ex officio, the treasurer of state, who shall serve ex officio, 1 member who shall be versed or trained in economics, 1 member who shall be experienced in finance, 1 member who shall be a trained highway engineer and 1 member who shall represent the general public. The last 4 mentioned members shall be appointed by and serve at the pleasure of the governor with the advice and consent of the council. The members of the said board, other than the governor, the treasurer of state and the commissioner of finance and administration, shall serve without compensation, but shall be allowed actual and necessary expenses for attendance at all meetings, which shall be called by the chairman whenever necessary. Each officer, board, commission or department of state government shall make such studies and give such information as the said board may require. (1951, c. 338. 1953, c. 265, § 6; c. 308, § 23.)

**Sec. 130. Issuance of highway and bridge bonds; duty of board.—**

The state, under proper authorization of the governor and executive council, shall issue all highway and bridge bonds. The governor and executive council shall consult with the said board for its recommendations as to whether conditions are favorable for any such issuance. In making its recommendations, which report shall be public, the board shall give due consideration to such factors as method of the issuance of such bonds, including term of years and repayment, interest rates and probable trends, construction costs and probable trends, volume of unemployment and economic conditions in general with the objective that such bonds be issued at a time and under conditions which will be most advantageous to the state and the people thereof. (1951, c. 338.)

**General Highway Fund.**

**Sec. 131. General highway fund defined.—**To provide funds for the construction of state, state aid and 3rd class highways, for the maintenance of state and state aid highways, and interstate, intrastate and international bridges, and for other items of expenditure hereinafter specified, there is established a fund to be known as the general highway fund. This fund shall include all fees received from the registration of motor vehicles and licensing of operators thereof, all fees accruing to the treasurer of state under the provisions of section 2 of chapter 15, the receipts from the tax on internal combustion engine fuels, and all sums received on account of the commission for permits to open highways, or from other sources, the disposition of which is not otherwise designated by law. After payment from said general highway fund of such sums for interest and retirement as are necessary to meet the provisions of bond issues for state highway and bridge construction, the remainder of said fund shall be segregated, apportioned and expended as provided by the legislature. (R. S. c. 20, § 105. 1949, c. 323, § 2.)

See c. 16, § 186, re proceeds from use § 34, re fees received from reserved registration numbers; c. 18, § 13, re funds due to any town or county may be withheld; c. 22, § 65, re roads in decentralized towns.

**Sec. 132. Unexpended balances non-lapsing, nontransferable. —**

Such unexpended balances of the general highway fund as have been set up for general construction and maintenance of highways and bridges shall be deemed non-lapsing carrying accounts. All other unexpended balances shall lapse into the general highway fund at the end of each fiscal period, but shall not lapse or be transferred to the general fund in the treasury.

Transfers from one account of the general highway fund to another account thereof shall be made only with the approval of the governor and council, but in no case shall any permanent transfer be made except for purposes specifically provided for by appropriate legislative acts for the expenditures of the general highway fund. (R. S. c. 20, § 106. 1945, c. 378, § 19.)

**Sec. 133. Limitation on use of general highway fund.—**All revenue received by the state from the registration of motor vehicles and the licensing of operators thereof, from the tax imposed on internal combustion engine fuel, from fines, forfeitures and costs accruing to the state under the provisions of section 163 of chapter 22 and from permits granted by the commission to open highways, shall be segregated, allocated to and become part of the general highway fund created and existing by the provisions of statute, and after payment and deduction from such fund of such sums as are necessary to meet all provisions of bond issues for state highway and bridge construction, the remainder of such fund shall be apportioned and expended solely:

- I. For the cost of registering motor vehicles and licensing the operators thereof;
- II. For maintenance of the state police;
- III. For administration of the office and duties of the commission;
- IV. For administration of the tax on internal combustion engine fuel;
- V. For payment of rebates on said tax;
- VI. For the improvement, construction and maintenance of highways and bridges;
- VII. For snow guards or removal as provided by statute.

Neither the general highway fund, nor any fund derived from direct taxation imposed for highway construction, bridge construction or the improvement and maintenance thereof, shall be diverted or expended, permanently, for any other purpose than set forth in this section, except that funds so segregated may be used for other appropriations but only those for which anticipated income has not been received and for which financial provision has been made by the legislature and is forthcoming; and the treasurer of state is directed and authorized to reimburse the general highway fund by a deposit of the funds received from such aforesaid appropriations, the receipt of which has been anticipated, to the extent of the amounts temporarily diverted therefrom; such deposits to be made as soon as such revenues are collected. (R. S. c. 20, § 107.)

#### Miscellaneous Financial Provisions.

**Sec. 134. Highway funds used to match federal funds for road projects.**—Upon application of the municipal officers of any city, town or plantation, the state highway commission may permit, subject to the provisions of the statutes governing the allocation of highway funds to municipalities and the expenditure of same, such city, town or plantation to expend highway funds made available by the state to such municipality to match federal funds in the sponsoring of work projects for the improvement and construction of ways and bridges in such city, town or plantation; provided, nevertheless, that nothing in this section shall be construed as authorizing the state highway commission or the municipal officers of any city, town or plantation to ignore or disregard an express authorization from the legislature in regard to the use of any funds for any expressly designated purpose. (R. S. c. 20, § 108.)

**Sec. 135. Towns having money to become available from state for road or bridge work may anticipate expenditure.**—Any town to which, under any legislature enactment or resolve, money will become available for road and bridge work at the beginning of the fiscal year, may, at any time preceding the commencement of the fiscal year for which such appropriation is made, anticipate the expenditure of any appropriation for repair or improvement of a highway or bridge, by arranging to finance such work from funds of the town, or otherwise, prior to the date when such appropriation will become available, with the advice and consent of the commission. Provided, however, that the commission may at any time, from appropriate funds, reimburse towns for expenditures previously made for the improvement of state aid roads, provided such expenditures have been made with the consent of the commission and under its supervision, and that such reimbursements in any year shall not exceed the apportionments made to such towns for the improvement of state aid roads under existing statutes. (R. S. c. 20, § 109. 1947, c. 255.)

**Sec. 136. Controller to approve bills created under preceding section.**—The controller is authorized to approve any bill or account created in

accordance with the provisions of section 135 against any appropriation available in any fiscal year, as though said bill or account was incurred during the time for which said appropriation was made. (R. S. c. 20, § 110.)

### Outdoor Advertising.

**Sec. 137. License; fee.**—No person, firm or corporation shall engage or continue in the business of outdoor advertising or erect, maintain or display any painted bulletins, poster panels or other outdoor advertising devices upon property not their own or not occupied by them as a place for carrying on business other than outdoor advertising until such person, firm or corporation shall have secured from the state highway commission, hereinafter called the “commission,” a license to engage in the business of outdoor advertising. The fee for such license shall be the sum of \$100 per year for any person, firm or corporation engaging or continuing in the business of outdoor advertising for direct profit through rentals or compensation for the erection, maintenance or display of painted bulletins, poster panels or other outdoor advertising devices upon real property; \$25 per year for any person, firm or corporation erecting or maintaining, not for direct profit through rentals or compensation, displays of painted bulletins, poster panels or other outdoor advertising devices upon property not their own or not occupied by them as a place for carrying on business other than outdoor advertising; except that the license fee for not exceeding 5 signs, none of which is more than 20 square feet in area, shall be \$5 per year. All fees for such licenses shall be payable annually in advance. (R. S. c. 20, § 111.)

**Sec. 138. Permits.**—No person, firm or corporation shall erect or maintain upon real property any outdoor advertising structure, device or display, including those now or hereafter existing, until a permit for the erection or maintenance of such structure, device or display shall have been obtained from the commission. The provisions of this section shall not apply to outdoor advertising structures, devices or displays upon the property whereon the goods so advertised are manufactured or sold or the business or profession so advertised is carried on or practiced, or which advertise the real property upon which the same may be for sale or for rent, provided that such structures, devices or displays shall not exceed 10 in number or a total area of 250 square feet, and provided that such structures, devices or displays shall be within 300 feet of the building wherein the goods advertised are manufactured or sold or the business or profession advertised is carried on or practiced, except that if such building is not adjacent to a public way designated by state or federal highway route numbers, said structures, devices or displays shall be within 300 feet from the junction of the nearest such highway and the traveled way, public or private, constituting the approach to said building, and such signs shall not exceed 2 in number or 200 square feet in total area and provided further, that none of such signs shall be of an area greater than 100 square feet or shall endanger the safety of persons using the highways. (R. S. c. 20, § 112. 1951, c. 302, § 1.)

**Sec. 139. Fees.**—The fees for such permits shall be \$2.50 for each panel, bulletin or sign the area of which does not exceed 100 square feet, and \$4.50 for each panel, bulletin or sign the area of which exceeds 100 square feet but does not exceed 300 square feet, and \$5 for each panel, bulletin or sign the area of which exceeds 300 square feet but does not exceed 700 square feet and \$7 for each panel, bulletin or sign the area of which exceeds 700 square feet but does not exceed 900 square feet. The area of a panel, bulletin or sign shall include all finish mouldings but not lattice work or base trim used only for ornamental purposes. A fee shall be paid for each side of each panel, bulletin or sign used or intended to be used for advertising, and each panel, bulletin or sign of a series



shall require a permit and the payment of a separate permit fee. All fees for such permits shall be payable annually in advance. (R. S. c. 20, § 113. 1947, c. 325. 1949, c. 349, § 31.)

**Sec. 140. Application.**—Applications for licenses and permits shall be made to the commission and shall be accompanied by the fees applicable thereto as hereinbefore provided. They shall be in writing upon forms furnished by the commission, shall contain the full name and post-office address of applicant and such other information as the commission may require and shall be signed by the applicant or by his, their or its duly authorized agent. Applications for permits shall state also the location of the structure, device or display for which the permit is asked. The commission shall examine said applications and, if they comply with the provisions of sections 137 to 148, inclusive, shall grant the licenses and permits applied for, which shall be in effect, unless revoked, until the end of the calendar year in which issued. (R. S. c. 20, § 114.)

**Sec. 141. Disposition of fees; expenses of commission.**—The fees collected under the provisions of sections 137 to 148, inclusive, shall be paid over by the commission to the treasurer of state and deposited in the general highway fund. All the costs and expenses of the commission incurred in administering the provisions of sections 137 to 148, inclusive, shall be paid out of such amounts as the legislature may appropriate for administrative costs of the commission. (R. S. c. 20, § 115. 1945, c. 20.)

**Sec. 142. Limitation on granting of permits.**—No permit shall be granted for the erection, construction or maintenance of any outdoor advertising structure, device or display within a distance of 300 feet of the intersection or junction of a highway with another highway, or with a railway or street railway, at a point where it would obstruct or interfere with a view of a train, street car or other vehicle on the intersecting or joining highway, railroad or street railway; or within 300 feet of any public park, reservation, public forest, public playground, school, church or cemetery and in public view therefrom; or within 50 feet from the nearer line of the traveled way of a public highway and in public view therefrom; or on any public highway, park or other public property; or which in the judgment of the commission is or would be injurious to property in the vicinity thereof, or injuriously affect any public interest or endanger the safety of persons using any highway; or in a place wherein the erection, construction or maintenance thereof is or shall be prohibited by any municipal ordinance or regulation; or upon real property owned by or leased to a person other than the applicant, except with the consent of such owner or lessee; or whose area shall exceed 900 square feet; or which, in whole or in part, in its operation shall move or simulate motion, or which is or shall be painted upon or annexed to any rock or tree within the prohibited area. No permit shall be granted or renewed for the further maintenance of any billboard, sign or other advertising device unless the front, back, braces, anchors and lattice work thereof are kept in proper condition. (R. S. c. 20, § 116.)

**Sec. 143. Powers.**—The commission is authorized to employ, subject to the provisions of the personnel law, clerical or other assistants required for the administration of the provisions of sections 137 to 148, inclusive; to make and enforce orders and regulations for the enforcement of said provisions; to prosecute and maintain in the name of the state actions for violations hereof and the recovery of penalties therefor; to revoke any license or permit hereunder for any violation hereof or of any such order or regulation hereunder, after hearing of the time and place of which and of the alleged violation or violations not less than 30 days' written notice shall have been given to the licensee or holder of the permit by registered mail addressed to such licensee or holder at the residence or place of business stated in the application; to prescribe and from time to

time to make changes in the forms of applications for licenses and permits and of licenses and permits; to order and cause the removal of any outdoor advertising structure, device or display erected or maintained in violation hereof, or which in its judgment endangers the safety of persons using the highways, and for said purpose to enter upon private property. (R. S. c. 20, § 117.)

**Sec. 144. Removal of structure.**—When in its judgment the public safety requires it, the commission may order a hearing for the removal of any such outdoor advertising structure, device or display by causing a copy of the order for hearing to be mailed by registered mail to the holder of the permit therefor to the residence or place of business appearing in the application for such permit or to the person, firm or corporation owning or controlling such structure, device or display at least 30 days prior to the date of said hearing and if, after due hearing, the said commission shall order said structure, device or display removed and if said order shall not be complied with within 30 days thereafter, the commission may remove said structure, device or display and recover the expense thereof from the holder of the permit or person, firm or corporation owning or controlling said structure, device or display, and said commission may remove without hearing any structure, device or display for which no application has been filed and permit granted as required by sections 137 to 148, inclusive, and may recover the expense as aforesaid. The state police, and the police officers of any municipality and the peace officers of any county or township shall, at the request of the commission, remove or cause to be removed any such structure, device or display, the removal of which it shall have ordered as aforesaid. (R. S. c. 20, § 118.)

**Sec. 145. Permits numbered.**—Permits issued under the provisions of sections 137 to 148, inclusive, shall bear distinguishing numbers, and any structure, device or display erected, constructed or maintained thereunder shall have upon its face in readily legible form the permit number. Permits, as aforesaid, to be attached to said structure, device or display shall be furnished by the commission. (R. S. c. 20, § 119.)

**Sec. 146. "Display" defined.**—The word "display" as used in sections 137 to 148, inclusive, and in other laws of the state relating to advertisements and signs shall mean erecting, maintaining, pasting, painting and posting any advertisement or sign out of doors or erecting or maintaining any billboard or other structure designed and intended for the display of advertising matter where the same may be seen by the public or allowing any such advertisement, billboard or other structures, erected or displayed either before or after July 6, 1935, to remain exposed, in whole or in part, to public view, and shall include the act itself and the causing of such act to be done. The obligation to pay license and permit fees required by law shall apply and be in force for such time as such advertisement or sign or any part thereof shall remain visible and as long as any board or structure or any part thereof erected or built for the purpose of displaying advertising matter thereon shall remain exposed to public view. Warning or directional signs upon or near highways erected by the state or political sub-divisions thereof or other signs erected or intended exclusively for the safety, welfare or convenience of persons using such highways, or temporary signs or posters for political or agricultural fair purposes, shall not be deemed to be outdoor advertising structures, devices or displays within the meaning of sections 137 to 148, inclusive, but they shall not be painted upon or annexed to any rock or tree and are subject to regulation and supervision by the commission to prevent or remove whatever will injuriously affect any public interest or endanger the safety of persons using any highway. Signs or posters located on railroad property and intended for display to the public using such railroad, and signs erected, maintained or displayed under the provisions of any statute, and

directional signs erected by authority of the commission upon designs determined by it and not exceeding 48 inches in length and 9 inches in width, except in cases where the commission shall decide that a larger directional sign is necessary for control of traffic, designating places of interest within 20 miles of the location of said sign shall not be deemed outdoor advertising structures, devices or displays within the meaning of sections 137 to 148, inclusive. (R. S. c. 20, § 120.)

**Sec. 147. Limitation.**—These regulations shall not apply to outdoor advertising in the compact or built up section of any town or city but such advertising is subject to regulation by town or city by-laws or ordinances. The compact or built up section of any town or city, for the purposes of this section, shall be the territory thereof contiguous to any way which is built up with buildings devoted to business or where the dwelling houses are situated less than 150 feet apart for a distance of at least  $\frac{1}{4}$  of a mile. (R. S. c. 20, § 121. 1951, c. 302, § 2.)

**Sec. 148. Penalty.**—Any person, firm or corporation who shall erect, maintain or display an advertisement, sign or billboard, or any structure designed for the display of advertising matter contrary to the provisions of sections 137 to 148, inclusive, shall be punished by a fine of not less than \$10, nor more than \$100. The display of each sign shall constitute a separate offense. The fines and costs imposed and collected under the provisions of this section shall be paid to the treasurer of state and deposited in accordance with the provisions of section 141. (R. S. c. 20, § 122. 1951, c. 43.)

**Sec. 149. Restrictions on signs and billboards adjacent to turnpikes.**—In order to better safeguard the interests and investments of the state and its people in the state turnpike system, to afford a greater measure of protection to the users of the turnpike by elimination of dangerous hazards, to best maintain the turnpikes for the welfare of society and to prevent the unrestricted use of signs and advertising structures and devices immediately adjacent to them, no person shall erect or maintain within 500 feet of the nearest right-of-way boundary line of any state turnpike any advertising sign or advertising structures or devices of any kind. As used in this section "advertising sign or advertising structure or device" shall be deemed to mean any advertising structure, sign, picture, word or device for the advertisement thereon or thereby of any commodity, service or thing. The provisions of this section shall not apply to outdoor advertising structures, devices or displays upon the property whereon the goods so advertised are manufactured or sold, or the business or profession so advertised is carried on or practiced, or which advertise the real property upon which the same may be for sale or for rent, provided that such structures shall not exceed 10 in number or a total area of 250 square feet, and provided that such structures, devices or displays shall be within 300 feet of the building wherein the goods advertised are manufactured or sold, or the business or profession advertised is carried on or practiced. Any person violating the provisions of this section shall be guilty of a misdemeanor. (1947, c. 279.)

**Sec. 150. Advertising signs on highways prohibited; jurisdiction; state police to remove signs.**—No person shall post, erect, display or maintain or cause to be posted, erected, displayed or maintained any sign, billboard, panel, placard, poster, notice or other advertising device in, upon or above any public highway, or so situated with respect to any public highway as to obstruct clear vision of an intersecting highway or highways, or otherwise so situated as to prevent the safe use, or obstruct the maintenance of the public highway; and such public highway shall be deemed the full width of the road as laid out by the state, county or the town, and in any case shall be deemed to extend 33 feet each side of the center line of the traveled or built up portion of the way.

Provided that the provisions hereof shall not apply to the state or to any political subdivision thereof or to signs erected or maintained with the approval of

the commission solely for the purpose of safeguarding, facilitating or protecting travel along the highway; and provided further, that the commission may authorize the placing of directional signs of such design as it shall determine, not exceeding 48 inches in length and 9 inches in width to designate places of interest; to be posted without expense to the state at the junction of roads.

Any person found guilty of violating the provisions of this section shall be punished by a fine of not less than \$5, nor more than \$500; and whoever after conviction of such violation unlawfully maintains any such sign, billboard, panel, placard, poster, notice or other advertising device for 10 days after such conviction may be punished by a further fine of not more than \$50 for each day upon which such sign, billboard, panel, placard, poster, notice or other advertising device is maintained. Trial justices shall have jurisdiction to punish offenses under the provisions of this section. The state police shall remove all signs, billboards, panels, placards, posters, notices or other advertising devices existing within the limits of the highway in violation hereof. (1951, c. 302, § 3.)

#### **Unauthorized Signs.**

**Sec. 151. Display of unauthorized signs, signals or markings.—** No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or so interferes with the effectiveness of any official traffic-control device or any railroad sign or signal as to endanger the public, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information or promoting highway safety and of a type that cannot be mistaken for official signs.

Every such prohibited sign, signal or marking is declared to be a public nuisance and the authority having jurisdiction over the highway may order the same removed and, if not removed within 48 hours after receipt of the notice, is empowered to remove the same or cause it to be removed. (1951, c. 211.)