

# MAINE STATE LEGISLATURE

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ORGANIZATION AND CONSTRUCTION

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SUBCHAPTER I

ORGANIZATION

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### § 601. Organization

Any number of persons not less than 10, a majority of whom shall be citizens of the State, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property within the State, and for that purpose may make and sign articles of association in which shall be stated the name of the company, the gauge of the road, the places from which and to which the road is to be constructed, maintained and operated, the length of such road, as nearly as may be, and the name of each town and county in the State through which or into which it is to be made; the amount of the capital stock, which shall not be less than \$6,000 for every mile of road proposed to be constructed of the gauge of 4 feet 8½ inches, nor less than \$3,000 a mile for a narrower gauge, the number of shares of which said stock shall consist, and the names and places of residence of at least 5 persons, a majority of whom shall be citizens of the State, who shall act as directors of the proposed company and manage its affairs until others are chosen in their places. Each subscriber shall sign his name, residence and the number of shares which he agrees to take in said company.

R.S.1954, c. 45, § 1.

### § 602. Stock requirements before articles filed

The articles of association shall not be filed and recorded in the manner provided in section 603 until the capital stock named in section 601 has been subscribed thereto, in good faith, by responsible parties, and 5% paid thereon in cash to the directors named in said articles, nor until there is indorsed thereon or annexed thereto, an affidavit made by a majority of the directors named therein, that the amount of stock required by this section has been in good faith subscribed, and 5% paid thereon in cash, and that it is intended in good faith to construct, maintain and

operate the road mentioned in such articles, which affidavit shall be recorded therewith.

R.S.1954, c. 45, § 2.

**§ 603. Approval of articles; certificates**

The directors shall present to the Public Utilities Commission, hereinafter in this chapter called the "commission", a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. If the commission, after notice and hearing the parties, finds that all the provisions of sections 601 and 602 have been complied with, and that public convenience requires the construction of such railroad, said commission shall indorse upon said articles a certificate of such facts and the approval of the commission in writing. The Secretary of State shall upon payment of the fees prescribed by Title 13, section 76, cause the same with the indorsement thereon to be recorded, and shall issue a certificate in the following form:

**"STATE OF MAINE.**

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

The Secretary of State shall sign the same and cause the seal of the State to be thereto affixed, and such certificate shall be

conclusive evidence of the organization and establishment of such corporation at the date thereof. The Secretary of State shall cause a record of such certificate to be made, and a certified copy of such record may with like effect as the original certificate be given in evidence to prove the existence of such a corporation.

R.S.1954, c. 45, § 3.

#### **§ 604. Organization meeting**

The first meeting for the purpose of organizing such corporation shall be called by a notice, signed by 5 or more of the subscribers to such articles of association, stating the time, place and purpose of such meeting, a copy of which notice shall, 7 days at least before the day appointed therefor, be given to each such subscriber or left at his usual place of business or residence, or deposited in the post office, postpaid, addressed to him at his usual place of business or residence. Whoever gives such notice shall make affidavit of his doings, which shall be recorded in the records of the company.

R.S.1954, c. 45, § 4.

#### **§ 605. Increase of capital stock**

If the capital stock of any company formed under sections 601 to 604 is found to be insufficient for constructing and equipping its road, such company may increase the same from time to time, to any amount, for the purposes provided. Such increase must be sanctioned by a vote, in person or by proxy, of  $\frac{2}{3}$  in amount of all the stockholders at a meeting thereof called by the directors for that purpose.

R.S.1954, c. 45, § 5.

#### **§ 606. Approval of location; proceedings**

Every corporation organized under sections 601 to 605, before commencing the construction of its road, shall present to the commission a petition for approval of location, defining its courses, distances and boundaries accompanied with the map first presented, and with a profile of the line on the relative scales of profile paper in common use, and with a report and estimate prepared by a skillful engineer from actual survey. The commission shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice as said commission deems reasonable and proper, in order that all persons interested may have an opportunity to appear and object. If the



commission, after hearing the petition, approves the proposed location, the corporation may proceed with the construction thereof, provided they first file with the clerk of the county commissioners of each county through which the road passes a plan of the location of the road, defining its courses, distances and boundaries, and another copy of the same with the commission; but the location so filed shall not vary, except to avoid expense of construction, from the route first presented to said commission unless said variation is approved by them. The location, together with any variation made therein, shall be filed within 2 years from the time when the articles of association are filed in the office of the Secretary of State. The Public Utilities Commission, upon written application made to them, may extend the time of filing such variations in their discretion. No railroad shall be made across tidewaters where vessels can navigate without special permission of the Legislature first obtained.

R.S.1954, c. 45, § 6.

### **§ 607. Road construction in 3 years required**

If any corporation formed under sections 601 to 606 does not, within 3 years after its articles of association are filed and recorded in the office of the Secretary of State, begin the construction of its road, and expend thereon 10% of its capital, its corporate existence and power shall cease.

R.S.1954, c. 45, § 7.

### **§ 608. Filing map and profile of road**

Every corporation so organized shall, within one year after any part of its road has been constructed and opened for operation, cause a map and profile thereof, and of the land taken or obtained for the use thereof, to be made and filed in the office of the commission. Every such map shall be drawn on a scale and on paper to be designated by the commission and shall be signed by the president and engineer of the corporation.

R.S.1954, c. 45, § 8.

### **§ 609. Location; subscribers' objections; proceedings**

The railroad shall be located within the time and substantially according to the description in its charter, and the location shall be filed with the county commissioners, who shall endorse the time of filing thereon and order said location recorded. When

a corporation, by its first location, fails to acquire the land actually embraced in its roadway, or the location as recorded is defective or uncertain, it may, at any time, correct and perfect its location and file a new description thereof. In such case it is liable in damages, by reason of such new or amended location, only for land embraced therein for which the owner had not previously been paid. Any subscriber to the stock alleging that it had not been located according to its charter may, before payment of his subscription, make written application to the county commissioners in the county where the deviation is alleged, stating it, who after 14 days' notice to the corporation, and upon a view and hearing, shall determine whether it has been located as required. If they determine that it has been, no such defense shall be made to any process to enforce payment. If they determine that it has not, the subscription of such applicant is void. The prevailing party recovers costs. Railroad charters, whenever granted, limiting the time within which such railroad shall be completed shall not affect the portion thereof completed within such time, and all charters under which railroads have been constructed for a portion of the line authorized thereby are confirmed and made valid as to such portion.

R.S.1954, c. 45, § 9.

### § 610. Gauge changed

Any railroad corporation formed under sections 601 to 609, desiring to change the gauge of its road, shall by vote increase its capital stock to the amount required by section 601 if the existing capital be not equal to such amount, and shall present to the commission a written application, subscribed and sworn to by a majority of its directors, setting forth the desire of the petitioners, and that the increased amount of capital stock has been in good faith subscribed by responsible persons, and that 5% thereof has been paid in, in cash, to the treasurer of such corporation. If such application is approved by the commission, such corporation shall make and file a new location as provided by section 608.

R.S.1954, c. 45, § 10.

### § 611. Lapsed charter revived

The commission may revive the corporate existence and power of any such railroad corporation which may have ceased by failure of the corporation to file its location or to begin the construction of its road within the time limited by law, on ap-

plication made by the directors of said corporation to said commission, in the manner provided in section 610.

R.S.1954, c. 45, § 11.

### **§ 612. Legislative incorporation**

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

R.S.1954, c. 45, § 12.

### **§ 613. Number of directors**

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

R.S.1954, c. 45, § 13.

### **§ 614. Stock vote called by stockholder**

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

R.S.1954, c. 45, § 14.

### **§ 615. Roads extended**

Any railroad corporation of this State may locate, construct, operate and maintain extensions and branches anywhere in this State of the lines of railroad now or hereafter owned, leased, constructed or operated by it. No railroad corporation shall begin the construction of any such extension or branch without having first obtained from the commission, upon written application and after public hearing, an order authorizing and approving the location of any such extension or branch and a certificate stating that in the opinion of the commission public convenience and necessity require such construction.

R.S.1954, c. 45, § 15.

### **§ 616. Railroad corporations**

A railroad corporation may acquire, hold, maintain and operate steamship companies, ferries, ferryboats and docks, and either

directly or through subsidiaries, may own, maintain and operate motor vehicles not running upon rails or tracks, and aircraft for the transportation of passengers or freight. A railroad corporation, or any subsidiary thereof, in maintaining and operating such vehicles shall be subject to chapters 91 to 97 in respect to the transportation of passengers and property.

Subject to any necessary approval from the Public Utilities Commission or the Interstate Commerce Commission, a railroad corporation may, either directly or through subsidiaries, make use of such part of its property and assets as is not required in the performance of adequate service to the public as a common carrier by devoting the same to and engaging in non-common carrier activities and business. Any such non-common carrier activities and business of a railroad corporation shall be limited to those which could be engaged in by a corporation organized under Title 13, section 71, and shall be carried on by such railroad corporation subject to the same laws, rules and regulations respecting such activities and business as govern other corporations when engaged therein. Subject to section 211, a railroad corporation may purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of, the shares of the capital stock of, or any bonds, securities or evidences of indebtedness created by, any other corporation or corporations of this or any other state, territory or country, and while owners of such stock may exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

This section shall not be construed to abridge or affect any right or privilege derived from the Constitution or laws of the United States.

R.S.1954, c. 45, § 16.

### § 617. Use of electricity

Any railroad corporation of this State may operate its road by electricity.

R.S.1954, c. 45, § 17.

### § 618. Branch or connecting road aided

Any railroad corporation, wholly organized under the laws of this State, at any time when it has paid dividends for the preceding 3 years may, by vote of its directors, authorized or confirmed by a  $\frac{2}{3}$  vote of its stockholders, at a meeting notified for the purposes, with the consent of the commission, aid in the con-

struction or equipment of a branch of its railroad or in the construction or equipment of a connecting railroad, and may own and hold the securities of such branch or of such connecting railroad.

R.S.1954, c. 45, § 18.

### **§ 619. Shares in another road**

A railroad corporation which has a lease of, or which operates the railroad of another railroad corporation, may purchase and hold shares of the capital stock of such corporation, subject to the approval of the commission in accordance with the procedure set forth in chapters 1 to 17.

R.S.1954, c. 45, § 19.

### **§ 620. Holdings increased**

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

R.S.1954, c. 45, § 20.

### **§ 621. Capital stock increased**

A railroad corporation for the purpose of building a branch railroad track which it is or may be authorized to build, or of building a branch or extension which it is or may be authorized to build, or of aiding in the construction of another railroad pursuant to law, or of building stations, or of abolishing grade crossings, or of making permanent improvements, or of paying its floating debt, or of paying its funded debt, or for the payment of money borrowed for any lawful purpose, or for the purchase of shares of the capital stock of any railroad corporation whose railroad is leased to or operated by it, or for the purchase of shares of the capital stock of any railroad corporation of which capital stock it owns a majority, or for improving the alignment of its road, or for acquiring land for and laying new tracks or for other necessary and lawful purposes, including the retiring or refunding of capital stock of any class, not named in section 605, from time to time, with the approval of the commission, may issue its capital stock to any amount by issuing common or preferred stock, provided such issue shall first be authorized by vote of a majority of stock present or represented at a legal meeting of the corporation duly called for that purpose. If preferred stock is issued, the character of such stock including its voting power, if any, and the rate of interest or dividend to which it shall be en-

titled and whether it shall be cumulative or noncumulative shall be fixed by vote of a majority of stock present or represented at such legal meeting.

R.S.1954, c. 45, § 21.

### § 622. Proceedings before commission

Upon petition of the railroad corporation to the commission, the amount of such issue of capital stock, after such notice by publication as the commission shall order and after hearing, shall be determined by said commission, who shall within 30 days after final hearing of said petition file in the office of the Secretary of State a certificate showing the amount of the issue authorized and the purposes for which the proceeds of said new stock may be used. The company shall not apply such issue or the proceeds thereof to any purpose not specified in said certificate, and may be enjoined from so doing by the Superior Court upon application of the commission or of any interested party. This section shall not apply to any railroad corporation subject to the Interstate Commerce Act, while and so long as such corporation is required by federal law to make application to and procure consent from the Interstate Commerce Commission as a condition precedent to any issue of its capital stock.

R.S.1954, c. 45, § 22; 1963, c. 414, § 18.

### § 623. New stock offerings

Whenever a railroad corporation which is in actual possession of and operating a railroad issues capital stock having general voting rights, the new shares shall be offered, subject to the exceptions in this section set forth, proportionately to holders of its stock having general voting rights, except to holders of such classes of stock which when issued provide that the same shall not be entitled to subscription rights or shall be entitled only to limited subscription rights or when such subscription rights are negatived by some statute applicable thereto or by the charter or bylaws of the corporation. Any provision or provisions of the charter or bylaws relating to subscription rights may be amended or any new provision or provisions relating to such rights may be adopted by the affirmative vote of the holders of 90% of the shares of the voting stock present or represented at any stockholders' meeting, the call for which shall give notice of the proposed action. Shares of stock to which the stockholders may be entitled to subscribe shall be offered to the stockholders at such price as may be determined by them or as shall be

determined by the board of directors, if the stockholders, by a majority vote, delegate such authority to the board. The stockholders who shall be entitled to subscribe to such new shares shall be the stockholders of record upon the books of the company at such date as the stockholders may determine or at such date as the directors may determine, provided the stockholders shall delegate the determination of the date to the directors. The directors shall cause written notice of such issue to be given to each stockholder entitled to subscribe for the new shares, stating the amount of the issue, the number of shares or fraction of shares to which, according to the proportionate number of his shares at the date of the accrual of his rights, he is entitled, the price at which he is entitled to take them, and fixing a date within which he may subscribe for such new stock. Each stockholder may, within the time limited, subscribe for his portion of such new stock which shall be paid for in cash, except as otherwise provided, before the issue of a certificate therefor. In the absence of charter provisions to the contrary, subscriptions may not be made for fractions of shares, but rights to subscribe for such fractions may be combined to create rights of subscription to full shares. When the issue of capital stock does not exceed 4% of the existing capital stock of the corporation, the directors, without first offering the same to the stockholders, may sell the same in such manner, under such conditions, at such price and on such terms as the commission shall approve in an order issued pursuant to a petition or application filed with it under the requirements of section 622. If, after the expiration of the notice provided for, any shares of such stock remain unsubscribed for by the stockholders, or their assignees, entitled to take them, the directors may sell the same in such manner, under such conditions, at such price and on such terms as the commission shall approve in an order issued pursuant to a petition or application filed with it under the requirements of section 622.

The determination by the commission, under section 622 as to the amount of such issue, shall be based upon the price at which such stock is to be issued as approved by the stockholders, or by the board of directors, and the said commission shall refuse to approve any particular issue of stock if, in their opinion, the price approved by the stockholders or by the board of directors is unreasonably low, or the said commission may make its approval conditional upon such stock being issued or sold at a price not less than that which the commission shall determine.

When any class of stock is issued for the purpose of retiring interest-bearing obligations, at or before maturity, or for the

purpose of retiring preferred capital stock, such stock need not be offered to the stockholders but, pursuant to resolutions duly adopted by the board of directors, may be issued, in whole or in part, in exchange for the interest-bearing obligations or the preferred stock to be retired, in such amounts, at such prices and on such terms and conditions as shall be determined by the board of directors. When bonds or other interest-bearing obligations maturing at periods of more than 12 months after the date thereof are issued, or when any class of preferred stock is issued, there may be attached thereto warrants entitling the holder thereof to subscribe, at some future date or dates, for shares of common stock in such amounts, at such time or times, at such price or prices and under such terms and conditions as the stockholders, by majority vote, shall determine or as shall be determined by the board of directors if the stockholders, by majority vote, delegate such authority to the board. Such securities so issued with such warrants attached need not be offered to the stockholders unless the stockholders, by majority vote, shall so require, and common stock authorized to be issued to meet the purchase rights of such warrants shall be wholly exempt from any provisions of this section requiring that issues of capital stock shall be offered to the stockholders. Bonds or other interest-bearing obligations maturing at periods of more than 12 months after the date thereof and any class of preferred stock may be issued with provision that such bonds or other interest-bearing obligations and such stock may be converted into common stock or into a specified class or classes of preferred stock, in such amounts, at such future date or dates, at such price or prices and on such terms and conditions as the stockholders, by majority vote, shall determine or as shall be determined by the board of directors if the stockholders, by majority vote, delegate such authority to the board. Such securities so issued with such convertible provisions need not be offered to the stockholders unless the stockholders, by majority vote, shall so require, and capital stock of any class authorized for issuance in exchange for any such convertible bond or other interest-bearing obligations, or any such convertible preferred stock, shall be wholly exempt from any provisions of this section requiring that issues of capital stock shall be offered to the stockholders.

None of the provisions of chapters 1 to 51 requiring approval of the commission as a condition precedent to the issuing of any class of securities shall apply to any railroad corporation subject to the Interstate Commerce Act, or to the securities issued or to be issued by such corporation, while and so long as such corpo-



ration is required by federal law to make application to and procure consent from the Interstate Commerce Commission as a condition precedent to the issuing of the securities proposed to be issued by such railroad corporation or to notes issued by such railroad corporation maturing not more than 2 years after the date thereof.

R.S.1954, c. 45, § 23.

**§ 624. Wrongful stock issue; misapplication of funds or credit**

Any member of the board of directors, or any treasurer or other officer or agent of any railroad company, who knowingly votes to authorize the issue of, knowingly signs, certifies or issues stock authorized by sections 621 to 623 contrary to said sections or who knowingly votes to authorize the application of, or knowingly applies the proceeds of such stock contrary to said sections, or who knowingly votes to assume or incur or who knowingly assumes or incurs, in the name or behalf of such corporation, any debt or liability except for the legitimate purposes of the corporation, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or by both.

R.S.1954, c. 45, § 24.

**§ 625. Powers under existing law not affected**

Nothing contained in sections 619 to 624 shall be construed as a repeal of any of the powers conferred upon any railroad corporation under any other law.

R.S.1954, c. 45, § 25.

**SUBCHAPTER II**

**REAL ESTATE TAKEN**

Sec.

- 651. Land bought or taken.
- 652. Land for improvements; proceedings.
- 653. Change in location.
- 654. Land taken for change.
- 655. Limitation of right to enter or take land.
- 656. Branch tracks; construction ordered.

**§ 651. Land bought or taken**

A railroad corporation, for the location, construction, repair and convenient use of its road, may purchase or take and hold, as for public uses, land and all materials in and upon it. Through woodland and forest the land so taken shall not exceed 6 rods in width unless necessary for excavation, embankment or materials, and through all land other than woodland and forest, the land so taken shall not exceed 4 rods in width unless necessary for excavation, embankment or materials.

R.S.1954, c. 45, § 26.

**§ 652. Land for improvements; proceedings**

Any railroad corporation may purchase or take and hold, as for public uses, additional land or rights therein, at any time required for improving the alignment or grades of its road, or for double tracking its road, or for protecting the tracks against erosion of adjoining or adjacent land or against the action of the elements, or reasonably necessary in the enhancement of public safety at dangerous curves or crossings; and land or rights therein, for borrow, ballast and gravel pits, necessary tracks, side-tracks, spur tracks, freight or passenger yards, stations, station grounds, approaches to stations and station grounds and to other facilities furnished by the railroad for public use, coal sheds, woodsheds, water tanks, repair shops, car, engine, freight and section houses, section dwellinghouses and storage warehouses, or other structures, which the commission, after hearing, shall find to be reasonably required in the safe, economical and efficient operation of the railroad and in rendering of adequate common carrier service to the public. If the owner or owners of said land do not consent thereto, or if the parties do not agree as to the necessity therefor or as to the area to be taken, or if the parties are unable to agree as to the fair value of said land, the corporation may make written application to the commission requesting its approval of the taking by said railroad corporation for any of such public uses, describing the estate and naming the persons interested. The commission shall thereupon appoint a time for the hearing near the premises and require notice to be given to the persons interested, as they may direct, 14 days at least before said time. The commission shall then view the premises, hear the parties and determine how much, if any, of such real estate should be taken for the reasonable accommodation of the traffic, the safe operation of the railroad and the appropriate business of the corporation. If they find that any of it is

so necessary, they shall make a certificate containing a definite description thereof and furnish the corporation with a true copy thereof, attested by the clerk of the commission. When such copy of the certificate is filed with the clerk of courts in the county where the land lies, the land shall be deemed and treated as taken. When land is held by a tenant for life and the reversion is contingent as to the persons in whom it may vest on the termination of the life estate, such fact shall be stated in the application, and the commission shall, in addition to the notice to the tenant for life, give notice by publication to all others interested, in such manner as they deem proper.

R.S.1954, c. 45, § 27.

**§ 653. Change in location**

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

R.S.1954, c. 45, § 28.

**§ 654. Land taken for change**

Any railroad corporation may purchase, or take and hold as for public uses, land and materials necessary for making any changes authorized by section 653, in the manner authorized by its charter or the general provisions of law, and may cross highways and town ways in accordance with the law regulating such crossings.

R.S.1954, c. 45, § 29.

**§ 655. Limitation of right to enter or take land**

The land taken shall not be entered upon, except to make surveys, before the location has been filed and the damages estimated and secured as provided. No railroad corporation shall take, without consent of the owners, meetinghouses, dwelling houses, or public or private burying grounds.

R.S.1954, c. 45, § 30.

**§ 656. Branch tracks; construction ordered**

Any railroad corporation, under the direction of the commission, may locate, construct and maintain branch railroad

tracks to any railroad station of another corporation or to connect with another railroad or to any mills, mines, quarries, gravel pits, log landing or yard, warehouses and storehouses, airports, piers, docks, shipyards, educational institution or manufacturing establishments erected, or in process of erection, in any town or township through which the main line of said railroad is constructed but not within any city without the consent of the city government, and for that purpose said corporation shall have all the powers and rights granted and be subject to all the duties imposed upon it by its charter.

The commission, upon petition of any party interested, after notice and hearing, may order any railroad company to construct, maintain and operate such a branch railroad track to any such mill, mine, quarry, log landing or yard, warehouse, storehouse, airport, pier, dock, shipyard or manufacturing establishment owned or operated by the petitioner, whenever said commission shall find that such track is necessary for the reasonably convenient conduct of the business of the petitioner and is warranted by the volume of business to be handled thereon and can be so constructed, maintained and operated with due regard to safety and the reasonable operation of the railroad. No such order shall be made by said commission unless the petitioner shall provide, at his own expense, the right-of-way for such portion of said track as is not located upon the land of the railroad company; shall pay all the expense of the construction and maintenance of said track; shall furnish such security for said payment and shall comply with such conditions as to fire release and the operation of such track as the commission may prescribe. Said commission shall have authority upon petition of any party interested after notice and hearing to order any railroad company to alter any existing branch railroad track, whenever in its judgment such alteration is necessary for the reasonably convenient conduct of the business of the petitioner. All expenses of such alteration shall be paid by the petitioner. The commission, upon petition of any party interested, after notice and hearing, may permit any party owning or occupying premises adjacent to any track, constructed under this section, to use such track for receiving or holding freight in carload lots upon such terms and conditions as it may prescribe, including the payment of a part of the original cost of such track and of its future maintenance and suitable fire releases.

R.S.1954, c. 45, § 31.

## SUBCHAPTER III

## DAMAGES

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- 689. Service of process and notice.
- 690. Breach of injunction.

**§ 681. Estimate of damages; guardian; security for costs**

For real estate so taken, the owners are entitled to damages, to be paid by the corporation and estimated by the county commissioners, on written application of either party, made within 3 years after the location is filed, or if proceedings thus commenced fail for causes not affecting the merits, new ones may be commenced within one year thereafter. When no estimate is made within such time, the owner may maintain a civil action or have any remedy provided. The guardian of a person incapable of giving a valid conveyance, whose land is taken, may settle and give a valid release for damages; and persons having any interest in such land have the rights and remedies of owners to the extent of their interest. When requested by the owner, said commissioners shall require the corporation to give security for the payment of damages and costs by depositing, at its risk, with the clerk, specie, notes or obligations of a state or public corporation, or other security satisfactory to the party requiring it. When entitled to it, so much of any specie so deposited shall be paid to him as will satisfy his judgment. Notes or obligations so deposited shall be delivered to the officer having a warrant of distress, to be by him sold as personal property is sold on execution, to satisfy the warrant and fees, and any balance shall be paid to the treasurer of the corporation. When it neglects for more than 30 days to give the security required, the owner is entitled to the remedies by injunction.

R.S.1954, c. 45, § 32; 1961, c. 317, § 96.

**§ 682. Petitions for assessment of damages**

In all cases of petition to the commissioners of any county praying for the assessment of damages on account of any railroad corporation having taken lands therein, the notice to the adverse party of the time and place of the hearing thereon shall be a personal notice of 14 days or by publication of the petition and order of notice thereon in some newspaper published in said county, 2 weeks successively, the last publication to be 14 days before said hearing.

R.S.1954, c. 45, § 33.

**§ 683. Cattle guards and passes; double damages**

The county commissioners shall order the corporation to make and maintain such cattle guards, cattle passes and farm crossings as they think reasonable, and prescribe the time and manner of making them and consider this work in awarding pecuniary damages. If the corporation after 48 hours' notice in writing to its president or superintendent neglects to commence the work or complete it within a reasonable time, the owner may apply to the Superior Court, and the court, after due notice to said corporation, shall issue all necessary processes to enforce the specific performance of such orders or restrain it by injunction; or the party interested may recover, in a civil action, double the damage that he has sustained by such neglect.

R.S.1954, c. 45, § 34; 1961, c. 317, § 97.

**§ 684. Award of damages; terms and conditions**

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

R.S.1954, c. 45, § 35.

**§ 685. Commissioners' report of damages and rights of parties; notice**

Said commissioners shall at a regular session make a report of their general estimate of damages, stating specifically the terms

and conditions imposed by them and the rights and obligations of each party and cause it to be recorded. Their clerk shall then make out a notice to each person, stating the amount of damages awarded to him, which shall be served by an officer on those resident in the State and upon others, if any, by a publication 3 weeks successively in a newspaper printed in the county, if any; if not, in the state paper. The expense of notices shall be added to the costs of the proceedings and paid accordingly.

R.S.1954, c. 45, § 36.

**§ 686. Appeals; notice and proceedings**

Any person, aggrieved by the decision or judgment of the county commissioners in relation to damages for land taken for railroad purposes, may appeal to the Superior Court to be held in the county where the land is situated, within 30 days after the report of the commissioners is made, which court shall determine the same by a committee of reference if the parties so agree or by a verdict of its jury, and shall render judgment and issue execution for the damages recovered, with costs to the party prevailing in the appeal, but no committee or jury shall alter the requirements in the report of the commissioners. The appellants shall, when such appeal is taken, include in the complaint a statement setting forth substantially the facts of the case and shall give written notice of such appeal with a copy of the complaint to the opposite party. An appeal may be taken to the law court as in other actions.

R.S.1954, c. 45, § 37; 1959, c. 317, § 17.

**§ 687. Deposit of damages, interest and costs**

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

R.S.1954, c. 45, § 38.

**§ 688. When damages not paid**

When the damages remain unpaid for more than 30 days after they are due and demanded, equitable relief may be requested by the person entitled to them, praying for an injunction against the use or occupation of his land taken. If proceedings for an estimation of damages are not commenced within 3 years

and the owner of the land requests equitable relief therefor, the court may estimate the damages, decree their payment and issue an execution therefor. The court, after summary notice to the corporation and upon proof of the facts may, without any bond filed, issue an injunction prohibiting such use and occupation until all damages and costs are paid. If payment has not been made within 90 days, a permanent injunction may be issued; and all rights acquired by taking the land and all rights of property in and to whatever has been placed upon it cease, and the owner may maintain an action for its recovery and protection.

R.S.1954, c. 45, § 39; 1961, c. 317, § 98.

### § 689. Service of process and notice

Service of process and notice may be made as process is served in other actions. Service of an injunction issued against any person, whether a party to the action or not, may be made upon him and he shall be liable to all the penalties and consequences provided for a breach of it.

R.S.1954, c. 45, § 40; 1959, c. 317, § 18; 1963, c. 414, § 19.

### § 690. Breach of injunction

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

R.S.1954, c. 45, § 41; 1961, c. 317, § 99.

## SUBCHAPTER IV

### MUNICIPAL AID TO CONSTRUCTION

Sec.

- 711. Construction aid; proceedings.
- 712. Payment of loan.
- 713. Call for meetings in cities and proceedings.
- 714. Only one vote a year on same question.
- 715. Town agents may vote on town stock.
- 716. Citizens eligible as directors.



**§ 711. Construction aid; proceedings**

A city or town by a  $\frac{2}{3}$  vote, at any legal meeting called for the purpose, may raise by tax or loan, from time to time or all at once, a sum not exceeding in all 5% on its regular valuation for the time being, to aid in the construction of railroads in such manner as it deems proper, and for such purpose may contract with any person or railroad corporation. At such meetings the legal voters shall ballot, those in favor of the proposition voting "Yes," and those opposed voting "No." The ballots cast shall be sorted, counted and declared in open town meeting and recorded, and the clerk shall make return thereof to the municipal officers who shall examine such return, and if  $\frac{2}{3}$  of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to carry the same into effect.

R.S.1954, c. 45, § 42.

**§ 712. Payment of loan**

A city or town raising money by loan or under authority conferred by special Act of the Legislature shall raise and pay or fund besides the interest, each year after the third, not less than 3% of the principal. Any city or town receiving money, bonds, certificates of indebtedness or other evidence of debt in consideration of exchange, release or sale of its securities held to indemnify said city or town for having loaned its credit, or issued its bonds in aid of any railroad shall hold such money, bonds, certificates of indebtedness or other evidence of debt, or the proceeds thereof as a trust fund to liquidate such outstanding liabilities so long as they may continue.

R.S.1954, c. 45, § 43.

**§ 713. Call for meetings in cities and proceedings**

Meetings for such purposes in cities shall be called by the municipal officers, on the order of the common council, like meetings for the election of city officers, and said council shall set forth in their order the substance of the proposition to be inserted in the warrant. At such meetings, the voters shall vote in wards by ballot, those in favor of the proposition in the warrant voting "Yes," and those opposed voting "No," and the ballots cast shall be sorted, counted and declared in open ward meeting and recorded. The clerks shall make returns thereof to the municipal officers who shall examine the same. If  $\frac{2}{3}$  of the ballots cast are in favor of the proposition, said officers shall forthwith proceed to

carry it into effect. Lists of voters for use at such meetings shall be prepared in the same manner as for meetings for elections of town or city officers, and such lists shall be used at all meetings held under this section and section 711.

R.S.1954, c. 45, § 44.

### § 714. Only one vote a year on same question

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

R.S.1954, c. 45, § 45.

### § 715. Town agents may vote on town stock

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

R.S.1954, c. 45, § 46.

### § 716. Citizens eligible as directors

Whenever any city or town in the State, in its corporate capacity, holds  $\frac{1}{5}$  or more of the shares in the capital stock of any railroad incorporated by the Legislature, any citizen thereof, being a freeholder and resident therein, is eligible as a director of such railroad company.

R.S.1954, c. 45, § 47.

## SUBCHAPTER V

### CONTRACTOR'S LABORERS PROTECTED

Sec.

741. Liability of railroads for payment of laborers.

### § 741. Liability of railroads for payment of laborers

Every railroad company, in making contracts for the building of its road, shall require sufficient security from the contractors for the payment of all labor thereafter performed in constructing the road by persons in their employment. Such company is liable to the laborers employed for labor actually per-

formed on the road if they, within 20 days after the completion of such labor, in writing, notify its treasurer that they have not been paid by the contractors, but such liability terminates unless the laborer commences an action against the company within 6 months after giving such notice.

R.S.1954, c. 45, § 48.

## SUBCHAPTER VI

### INSPECTION AND SUPERVISION

Sec.

- 771. Railroads examined; annual report.
- 772. Certificate of safety for passenger trains.
- 773. Experienced engineer to examine bridges.
- 774. Managers notified when road unsafe.
- 775. Court proceedings for noncompliance.
- 776. Passenger trains prohibited from running unsafe roads.
- 777. Disagreement of connecting roads as to passengers and freight.
- 778. Award before court; exemptions; binding effect.
- 779. Station grounds not to be taken by another company.
- 780. Use of passenger stations.
- 781. Station erected.
- 782. Site and kind of station.
- 783. Refusal to comply with commission order.
- 784. Costs assessed to losing party.

#### **§ 771. Railroads examined; annual report**

The commission, or one member thereof, or some competent person duly appointed by said commission, on application or whenever they think necessary, shall carefully examine the tracks, rolling stock, bridges, viaducts and culverts of any railroad; and shall annually make a report to the Governor of their official doings, with such facts as they deem of public interest or which he may require. All persons managing railroads shall give the commission such information as they at any time require. Said commission shall maintain no permanent full-time employees for making such inspections.

R.S.1954, c. 45, § 49.

#### **§ 772. Certificate of safety for passenger trains**

No passenger train shall be run over any new railroad, or over any railroad in process of construction, until the commission has

made an inspection of such railroad and granted a certificate of its safety for public travel. A copy of said certificate, attested by the clerk of the commission, shall be furnished the corporation operating said railroad. Any person or corporation violating this section forfeits to the State \$100 for each offense, to be recovered in a civil action or by complaint and indictment, and the Attorney General shall institute proceedings to recover the same.

R.S.1954, c. 45, § 50; 1961, c. 317, § 100.

### **§ 773. Experienced engineer to examine bridges**

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

R.S.1954, c. 45, § 51.

### **§ 774. Managers notified when road unsafe**

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

R.S.1954, c. 45, § 52.

### **§ 775. Court proceedings for noncompliance**

If said managers do not comply with such requirements, the commission shall file a complaint to the Superior Court in any county where the railroad extends, setting forth their examination, the condition of the road, the notice and requirement and refusal to comply; and shall notify the Attorney General or the attorney of such county of the filing of said complaint, one of whom shall appear and take charge of the proceedings in court. The court shall order a notice thereon and appoint a hearing; and after a hearing, may order such things to be done by the managers of the road as they deem necessary to secure the safe-

ty of travelers. Unless such managers execute a bond to the State, with sufficient sureties, for such sum as the court deems necessary to make the repairs, conditioned that they will, within the time fixed by the court, make the repairs or otherwise satisfy the court that they will be so made, the court shall issue an injunction on said corporation and its managers, prohibiting the running of any passenger trains over the portion of the road found to be unsafe until the order has been complied with or revoked.

R.S.1954, c. 45, § 53; 1961, c. 317, § 101.

**§ 776. Passenger trains prohibited from running unsafe roads**

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

R.S.1954, c. 45, § 54; 1963, c. 414, § 20.

**§ 777. Disagreement of connecting roads as to passengers and freight**

When the managers of a railroad authorized to cross or connect with another road are unable to agree therewith as to transportation of passengers and freight over their roads, and upon other matters, or when the managers of the latter road neglect or fail or refuse to perform the requirements, provisions or conditions of the charter under which they hold and operate their railroad and acts additional and amendatory thereto, they may apply to the commission in writing, and any commissioner may indorse an order of notice thereon to all interested, fixing a time and place for hearing; and the applicant shall cause such order to be complied with. At such hearing any corporation or person claiming to be interested may be made a party and be heard thereon though not named in the application. Said commission has the authority of courts of law to summon witnesses and compel their attendance and testimony, and depositions may be tak-

en and used as in civil actions. When the hearing is closed, the commission shall determine and award the rates for transporting passengers, freight or cars over the road of each, or over any road on which either is a common carrier by contract or otherwise, and all other matters in controversy between the 2 roads arising from such connecting or crossing or the times of doing so; and may require either party to give security to the other for the payment of balances resulting from their mutual business, on such terms as they deem equitable; and may determine that their award may be suspended, after its acceptance, at the election of the party injured by the nonperformance of the conditions thereof by the other.

R.S.1954, c. 45, § 55; 1963, c. 414, § 21.

**§ 778. Award before court; exemptions; binding effect**

The award shall be returned to the court in the county where the hearing was had and accepted, or for good cause, rejected or recommitted. An appeal from any ruling of the court in such proceedings, except in recommitting the report, may be taken to the law court as in other actions. When the award is accepted and judgment rendered thereon, it is binding on all parties notified, whether they appeared or not, until a new award is made on another application. The court has full power to make the award effectual by process of contempt or otherwise as in civil actions in which equitable relief is sought. If the corporation or managers of any such road, after they are notified of the acceptance of such award, fail to comply with it, the directors, superintendent or other agents operating the same shall be punished by a fine of not less than \$10 nor more than \$50, for each day of such failure, to be recovered by indictment in the county where it occurs.

R.S.1954, c. 45, § 56; 1959, c. 317, § 19; 1963, c. 414, § 22.

**§ 779. Station grounds not to be taken by another company**

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

R.S.1954, c. 45, § 57.

**§ 780. Use of passenger stations**

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

R.S.1954, c. 45, § 58.

**§ 781. Station erected**

The commission, upon petition of responsible parties, representing that public convenience and necessity require the erection and maintenance of a station for freight and passengers or for passengers alone on the line of any railroad, after 14 days' notice by copy of said petition upon such corporation and by publishing said petition, with the order of said commission thereon, in such public newspaper as is designated in said order, 2 weeks successively, the last publication to be prior to the time fixed for said hearing, shall hear the parties and determine whether the prayer of the petitioners shall be granted. If such prayer is granted, they shall determine at what place or places a station shall be erected or maintained if erected, and whether for passengers or for passengers and freight.

R.S.1954, c. 45, § 59.

**§ 782. Site and kind of station**

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

R.S.1954, c. 45, § 60.

**§ 783. Refusal to comply with commission order**

If said corporation refuses or neglects to comply with the order of said commission, within the time prescribed therein, they shall enforce a compliance as provided in section 775.

R.S.1954, c. 45, § 61.

**§ 784. Costs assessed to losing party**

In all cases heard before the commission under sections 781 to 783, the expenses and costs attending the same shall be paid by the corporation against whom the complaint is made if the prayer of the petitioners is granted, but if their prayer is denied, such expenses and costs shall be paid by the petitioners. If the party against whom costs are so adjudged refuses or neglects to pay them within 30 days after such adjudication, upon complaint for such costs made by said commission to the Superior Court, the court may cause execution to issue therefor.

R.S.1954, c. 45, § 62; 1963, c. 414, § 23.

## SUBCHAPTER VII

## CROSSINGS AND BRIDGES

Sec.

- 811. Crossing of public ways.
- 812. Ways raised or lowered; course altered.
- 813. Discontinuance of railroad crossings.
- 814. Damages for neglect.
- 815. Bridges over canals or railroads; repairs; proceedings where unsafe conditions.
- 816. Temporary crossings for lumbering operations.
- 817. Crossing signs on each side of track; whistle and bell.
- 818. Precautions at crossings.
- 819. Crossings kept open part of year; expense apportioned.
- 820. Company to erect and maintain bridge guards.
- 821. Signboards at grade crossings; ringing of engine bells.
- 822. Failure to comply; damages.
- 823. Railroads crossing each other; application, notice and hearing.
- 824. Crossing over railroad already built; application, notice and hearing.
- 825. Plant railroad defined.
- 826. Bridges erected by municipalities maintained.
- 827. Report of decisions and copies to parties interested.



**§ 811. Crossing of public ways**

Railroads may cross any public highways in the line of the railroad but cannot pass along them without the written consent of the officials charged by statute with the duty of maintenance of such ways; but when a railroad is hereafter laid out across a public way, it shall be constructed so as to pass either over or under such way unless the commission shall, after notice and hearing, authorize a crossing at grade. Before entering upon the construction of any railroad along or across public ways, the manner and conditions of crossing shall be determined as provided by Title 23, section 2902.

R.S.1954, c. 45, § 63; 1959, c. 164.

**§ 812. Ways raised or lowered; course altered**

Highways and other ways may be raised or lowered, or the course of the same may be altered, to facilitate a crossing or to permit a railroad to pass over or under the same or at the side thereof, on application to the commission, and proceedings as provided by Title 23, section 2902, and for such purposes land may be taken and damages awarded as provided for laying out highways and other ways. The commission may prescribe the manner in which the work shall be done by the corporation. While the use of any way is thereby obstructed, a temporary way shall be provided by the corporation.

R.S.1954, c. 45, § 64.

**§ 813. Discontinuance of railroad crossings**

Any railroad corporation, the State Highway Commission or the municipal officers of a city or town in which a public way crosses or is crossed by a railroad, whether at grade or otherwise, may file a petition in writing with the Public Utilities Commission alleging that such crossing is no longer required by the public and praying that it may be closed or discontinued. The commission shall thereupon appoint a time for hearing thereon after notice of not less than 10 days to the petitioners, the State Highway Commission, the railroad corporation owning or operating such railroad and the city or town in which such crossing is located. After such notice and hearing, if the commission shall find that such crossing is no longer required by the public, it may order that the same be closed or discontinued.

R.S.1954, c. 45, § 65.

**§ 814. Damages for neglect**

When the corporation unnecessarily neglects to perform the acts so required, those injured may recover damages in a civil action, commenced within one year after performance is required.

R.S.1954, c. 45, § 66; 1961, c. 317, § 102.

**§ 815. Bridges over canals or railroads; repairs; proceedings where unsafe conditions**

A railroad may be carried over or under a canal or railroad in such manner as not unnecessarily to impede the travel or transportation on them. The corporation making such crossing is liable for damages occasioned thereby in a civil action. Bridges and their abutments, constructed for a crossing of any way, shall be kept in repair by the corporation, or by persons or parties running trains on any railroad crossing a highway or town way. The municipal officers of any city or town may give notice in writing to such persons, parties or corporations that a bridge required at such crossing has not been erected, or is out of repair and not safe and convenient, within the requirements of Title 23, section 3651, or that the crossing of any such highway or town way passing such railroad at grade, within their respective cities or towns, is not made or maintained safe and convenient as required by said section. Such persons, parties or corporations shall erect or repair such bridge or make such crossing safe and convenient within 10 days from the service of said notice. If they neglect to do so, any one of said municipal officers may apply to the Superior Court to compel such delinquents to erect or repair such bridge or make such crossing. After hearing, the court may make any order thereon which the public convenience and safety require and may by injunctions compel the respondents to comply therewith. Said officers may, after 10 days from the service of such notice, cause necessary repairs to be made and the expense thereof shall be paid by the persons, parties or corporations whose duty it is to keep such crossing safe and convenient.

R.S.1954, c. 45, § 67; 1961, c. 317, § 103.

**§ 816. Temporary crossings for lumbering operations**

A railroad company may, for the purpose of accommodating lumbering operations and for the transportation in ordinary vehicles of wood, coal, ice, hay or other commodities, establish and maintain temporary crossings of any railroad operated by it,

by agreement with any person who may request such crossing for such purposes. Upon petition, the commission, after notice and hearing, may direct any railroad company to establish and maintain such temporary crossings at such places on its line of road as said commission shall deem expedient, and thereupon said railroad company shall establish such crossing and maintain the same in accordance with this section and sections 817 to 819.

Whenever in the opinion of the commission any temporary railroad crossing established under this section is no longer necessary, said commission may, on its own motion or on petition of any interested party, after notice and hearing, order such crossing discontinued.

R.S.1954, c. 45, § 68.

### **§ 817. Crossing signs on each side of track; whistle and bell**

At every temporary crossing, established in accordance with section 816, boards with the words "Temporary railroad crossing, stop, look, listen" distinctly painted thereon, on each side in letters plainly legible, shall be placed on each side line of the railroad right-of-way at such crossing, on a post or other structure, in such position as to be easily seen by persons about to cross the railroad at such places. For any such crossing so established, engine bells shall be rung and engine whistles sounded as provided in section 821.

R.S.1954, c. 45, § 69.

### **§ 818. Precautions at crossings**

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

R.S.1954, c. 45, § 70.

### **§ 819. Crossings kept open part of year; expense apportioned**

Each such crossing shall be kept open only during such time each year as the parties interested therein may agree upon, or as

the commission may specify in cases where the commission directs such crossings to be established. When the commission shall direct any such temporary crossing to be established, they shall determine who shall bear the expense of establishing and maintaining such crossing and they may, if they see fit, apportion such expense between the railroad company and the person or persons who shall have petitioned for such crossing. The expense of the crossing signs and the planking between the rails shall in any event be borne by the railroad company.

R.S.1954, c. 45, § 71.

**§ 820. Company to erect and maintain bridge guards**

Every railroad corporation shall erect and maintain suitable bridge guards at every bridge or other structure, any portion of which crosses the railroad less than 22 feet above the tracks. Such guards must be approved by the commission and be erected and adjusted to their satisfaction. Any corporation refusing or neglecting to comply with this section, for each month of continuance in such neglect or refusal, forfeits \$50. Whoever willfully destroys or breaks any such bridge guard forfeits not more than \$100, and may be imprisoned for not more than 30 days.

R.S.1954, c. 45, § 72; 1959, c. 95.

**§ 821. Signboards at grade crossings; ringing of engine bells**

Every railroad corporation shall cause signboards with the words "Railroad Crossing" distinctly painted on each side thereof in letters plainly legible, to be placed and constantly maintained at the side of highways and town ways where they are crossed at grade by such railroads, on posts or other structures, in such position as to be easily seen by persons passing upon such ways. Every such corporation shall cause a whistle and a bell of at least 35 pounds in weight to be placed upon each locomotive used upon its railroad, and such whistles shall be sounded as a warning beginning at a distance of 60 rods on standard or narrow gauge railroads from all crossings of such ways on the same level, unless the commission upon petition of the corporation or of the municipal officers or of 10 or more residents of any city or town in which such crossing is located, after notice and hearing, shall order the sounding of such whistle to be discontinued in any city or village until further order of the commission. Such bell shall be rung at a distance of 60 rods, on standard or narrow gauge railroads, from such grade crossings and be kept ringing until the engine has passed the same. Upon petition of 10 or more

residents of the State, after notice to the railroad corporation and a public hearing, the commission may in writing order such corporation to give additional warning to travelers upon such ways by requiring the sounding of such whistles or the ringing of such bells at other places where said railroads cross such public ways other than at grade or run contiguous thereto, and such orders shall have the same force and place the same obligations upon railroad corporations as when required under this section.

R.S.1954, c. 45, § 73.

**§ 822. Failure to comply; damages**

For unnecessarily neglecting to comply with any provision of section 821, the corporation forfeits not more than \$500. Any person, whose duty it is to open or close such gates for the passage of an engine or traveler on a way, neglecting to do so forfeits not more than \$50. The corporation is liable for damages for its neglect to comply with these provisions, or for the neglect of any agent or for the mismanagement of an engine, to be recovered in a civil action by the person damaged thereby.

R.S.1954, c. 45, § 74; 1961, c. 317, § 104.

**§ 823. Railroads crossing each other; application, notice and hearing**

The commission shall determine the manner and conditions of one railroad of any kind crossing another. Any corporation or party operating such railroad may apply to said commission for a change in the then existing condition, construction or manner of any such crossing. Such application shall be in writing, giving the location of the crossing, and said commission shall give a hearing thereon after they have ordered such notice to be given by the applicants as to the time, place and purposes of such hearing as the commission shall deem proper. The commission shall determine at such hearing what changes, if any, are necessary, and how such crossings shall be constructed and maintained, the expense thereof to be borne as the commission may order.

R.S.1954, c. 45, § 75.

**§ 824. Crossing over railroad already built; application, notice and hearing**

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

R.S.1954, c. 45, § 76.

**§ 825. Plant railroad defined**

Sections 811, 812, 821, 823 and 824 and Title 23, sections 1251 to 1254, and section 2902, so far as applicable, shall apply to plant railroads. The term "plant railroad" shall be construed to mean a railroad of the owners of any mills, mines, quarries, gravel pits, log landings or yards, warehouses, storehouses, stock yards, bulk storage yards, airports, piers, docks, shipyards, educational institutions, power plants, gas works, petroleum tank farms or bulk stations, or other manufacturing, processing or mercantile establishments, and including state and federal institutions and developments, erected or in process of erection, which said railroad is located on land provided or acquired for such purpose by the owners thereof, and whether operated by such owners, or by state or federal government or an agency thereof, or through connection with a public railroad under operating contract with it and by operation of its equipment over said plant railroad.

R.S.1954, c. 45, § 77.

**§ 826. Bridges erected by municipalities maintained**

Bridges erected by any municipality, over which any railroad passes, shall be constructed and maintained in such manner and condition as to safety as the commission may determine. The commission may require the officers of the railroad company

and of the municipality to attend a hearing in the matter, after such notice of the hearing to all parties in interest as said commission may deem proper. The commission shall determine at such hearing the repairs, renewals or strengthening of parts, or if necessary the manner of rebuilding such bridge required to make the same safe for the uses to which it is put. They shall determine who shall bear the expenses of such repairs, renewals, strengthening or rebuilding, or they may apportion such expense between the railroad company and the city or town, as the case may be, in such manner as shall be deemed by the commission just and fair and shall make their report.

R.S.1954, c. 45, § 78.

**§ 827. Report of decisions and copies to parties interested**

The commission shall make a report in writing of their decision in all matters named in sections 823, 824 and 826, file the same in their office, and cause a copy of such decision to be sent by mail to each of the railroad corporations and to the municipal officers of the cities or towns, as the case may be, interested therein.

R.S.1954, c. 45, § 79.