

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Chapter 46.

Steam Railroads—Management and Operation.

Sections 60 to 98-A. Safety Provisions.

Sections 99-104. Railroad Equipment.

Fares and Tolls.

Sec. 8. Evading payment of fare or riding on freight train.—No person is entitled to transportation over a steam railroad or upon any steamboat or ferry or in a taxicab or public automobile, who does not on demand first pay the established fare. Whoever, while being transported over any steam railroad, steamboat, ferry or in a taxicab or public automobile, willfully refuses on demand to pay the established fare, and whoever fraudulently evades payment of the established fare by giving a false answer, or by traveling beyond the place to which he has paid, or by leaving a train, steamboat or ferry, or taxicab or public automobile without paying the established fare, whether said fare is demanded or not, forfeits not less than \$5 nor more than \$20, to be recovered on complaint. No person, without right, shall loiter or remain or place or cause to be placed any property or obstruction on the right-of-way of a railroad corporation, or on land owned by a railroad corporation adjoining or adjacent to its right-of-way, or, without right, shall board or attempt to board or remain on any railroad freight train, freight car, caboose, locomotive or work equipment; any person violating any provision of this portion 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. (R. S. c. 42, § 8. 1961, c. 395, § 24.)

Effect of amendment.—The 1961 amendment, effective upon its approval, June 17, 1961, deleted “street railroad” in the first sentence and also deleted “street railroad” and “street railroad car” in the second sentence.

Transportation.

Sec. 13. Equal facilities to all expresses.—Every railroad operating in the state shall furnish reasonable and equal facilities and accommodations to all persons engaged in express business for transportation of themselves, agents, servants, merchandise and other property; for the use of their stations, buildings and grounds, and for exchanges at points of junction with other roads, under a penalty of not more than \$500, to be recovered by indictment; and are liable to the aggrieved party in a civil action for damages. (R. S. c. 42, § 13. 1961, c. 317, § 105.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action on the case” in this section.

Sec. 15. Railroad corporation neglecting to run trains; order of notice; hearing; receivers. — Whenever any railroad corporation, after commencing to receive tolls, neglects or refuses regularly to run trains upon and to operate its road for the transportation of passengers and freight for 60 days at any one time, the public utilities commission, or any 10 citizens residing in any county through which said railroad extends, may file a complaint with the superior court in any county through which such railroad extends, setting forth therein such neglect and refusal so to run trains and operate its road; which complaint, before filing in court, may be presented to any justice thereof who shall order not less than 14 days’ notice thereon to be served on such corporation. The plaintiffs shall give written notice to the attorney general or the county attorney of the county in which said complaint is filed, or the filing thereof, one of whom shall appear and take charge of proceedings in court. The court shall appoint a hear-

ing, and at or after said hearing, if the allegations in such complaint are found to be true, and if in its opinion public necessity and convenience require it, the court shall appoint some suitable person or persons or some other railroad corporation, a receiver or receivers, to take possession and control of said railroad, together with all corporation property belonging thereto, and shall require such receivers to give bond to said corporation in a reasonable sum, with sureties satisfactory to the court, for the faithful discharge of their trust and shall also determine their compensation. (R. S. c. 42, § 15. 1961, c. 317, § 106.)

Effect of amendment.—The 1961 amendment substituted “file a complaint with” for “petition” near the middle of the first sentence of this section; substituted “complaint, before filing” for “petition, before entry” and deleted “in term time or vaca-

tion” formerly following “justice thereof” near the end of such sentence; substituted “plaintiffs” for “petitioners” and “complaint” for “petition” in the second sentence; and substituted “complaint” for “petition” in the third sentence.

Sec. 18. Railroad restored to corporation.—Any justice of the superior court sitting in the county where the original complaint was filed, on complaint of said railroad corporation or its owners, and after reasonable notice to such receivers, may revoke their authority and restore the possession and control of said railroad to said corporation or its owners, upon their paying the principal and interest of the loan then existing, together with the sum due said receivers for their personal services, with all the expenses incurred in operating and repairing said railroad and its appendages during their continuance in their said capacity, over and above the earnings thereof, provided said railroad corporation or its owners give bond to the state in such sum as the court orders, with sureties satisfactory to the court, conditioned that said corporation or its owners thus seeking to receive possession shall operate and keep in repair said railroad, its rolling stock and other appendages to the satisfaction of the public utilities commission for 5 years following said order. (R. S. c. 42, § 18. 1961, c. 317, § 107.)

Effect of amendment.—The 1961 amendment substituted “complaint” for “petition” in two places near the beginning of

this section and made other minor changes therein.

Fences and Trespasses on Adjoining Lands.

Sec. 23. Line fences built on notice of abutter.—The owner of any enclosed or improved land or woodlot belonging to a farm abutting upon any railroad which is finished and in operation may at any time between the 20th day of April and the end of October give written notice to the president, treasurer or any of the directors of the corporation owning, controlling or operating such railroad that the line fence against his land has not been built, or if built, that the same is defective and needs repair. If said corporation neglects to build or repair such fence for 30 days after receiving such notice, it forfeits to such owner \$100, to be recovered in a civil action. (R. S. c. 42, § 23. 1961, c. 317, § 108.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an

action on the case” at the end of this section.

Judgments against Road Leased by Foreign Corporation.

Sec. 26. Judgment for damages collected of foreign railroad company leasing railroad.—When any foreign railroad company, which is or has been doing business in this state as the lessee of any railroad, refuses or neglects for 60 days after demand to pay and discharge any judgment recovered by any person against the company owning such leased road for damages to the property of such person by the doings, misdoings or neglects of such foreign company, its agents or servants, which judgment belongs to such foreign company to pay and discharge, the superior court, on complaint, may compel payment thereof by such

foreign corporation and make, pass and enforce all necessary orders, decrees and processes for the purpose. (R. S. c. 42, § 26. 1961, c. 317, § 109.)

Effect of amendment.—The 1961 amendment deleted “in equity” formerly following “which judgment belongs” and substituted “complaint” for “petition” in this section.

Sec. 27. Judgment creditor may have remedy against lessors.—When any such judgment is recovered and such foreign company neglects, for 60 days, to satisfy it, the judgment creditor may have a civil action against such foreign company for the recovery of the amount of such judgment, with interest and costs. (R. S. c. 42, § 27. 1961, c. 317, § 110.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action on the case” in this section.

Shares, Coupons and Mortgages.

Sec. 29. Rights of holders of coupons.—When coupons for interest issued with bonds are, for a valuable consideration, detached and assigned by delivery, the assignee may maintain a civil action upon them in his own name against the corporation engaging to pay them. (R. S. c. 42, § 29. 1961, c. 317, § 111.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “assumpsit” in this section.

Sec. 30. Trustees; vacancies; elections affirmed; decrees enforced.—When a railroad corporation mortgages its franchise for the payment of its bonds or coupons and trustees are appointed by such corporation, by special law or by the mortgage, the bondholders, at a regular meeting called for the purpose and notified as hereinafter provided may, from time to time, elect by ballot new trustees to fill vacancies, when no other method for filling vacancies is specifically provided in the appointment, special law or mortgage. Any party interested may present the proceedings of such meeting to the superior court. The court shall appoint a time of hearing and order such notice to parties interested as it deems proper, and may affirm such elections and make and enforce any decrees necessary for the transfer of the trust property to the new trustees. Such decrees shall be filed with the clerk of the judicial courts where the hearing is had and be recorded by him. (R. S. c. 42, § 30. 1961, c. 317, § 112.)

Effect of amendment.—The 1961 amendment divided the former second sentence of this section into two sentences, substituted “The court” for “or to a justice thereof in vacation, who” and “it” for “he” therein.

Foreclosure and Redemption of Mortgages.

Sec. 36. Railroad mortgages foreclosed.—The trustees, on application of $\frac{1}{3}$ of the bondholders in amount to have such mortgage foreclosed, shall immediately give notice thereof, by publishing it 3 weeks successively in the state paper and in some paper, if any, in each county into which the road extends, therein stating the date and conditions of the mortgage, the claims of the applicants under it, that the conditions thereof have been broken, and that for that reason they claim a foreclosure. They shall cause a copy of such notice and the name and date of each newspaper containing it to be recorded in the registry of deeds in every such county within 60 days from the first publication. Unless, within 3 years from the first publication, the mortgage is redeemed by the mortgagors or those claiming under them, or equitable relief as in cases of the redemption of mortgage lands is sought, founded on payment or a legal tender of the amount of overdue bonds and coupons, or containing an averment that the complainants are ready and willing to redeem on the rendering of an account, the right of redemption shall be forever foreclosed. (R. S. c. 42, § 36. 1961, c. 317, § 113.)

Effect of amendment.—The 1961 amendment divided this section, which formerly consisted of one sentence, into three sentences and substituted “equitable relief” for “a bill in equity” and “sought” for “commenced” therein.

Sec. 38. Foreclosure constitutes holders a corporation, and trustees shall convey to it.—The foreclosure of the mortgage shall inure to the benefit of all the holders of bonds, coupons and other claims secured thereby; and they, their successors and assigns are constituted a corporation as of the date of the foreclosure, for all the purposes and with all the rights and powers, duties and obligations of the original corporation by its charter; and the trustees shall convey to such new corporation by deeds all the right, title and interest which they had by the mortgage and the foreclosure thereof, and thereupon they shall be discharged. If they neglect or refuse so to convey, the court, on application for equitable relief, may compel them to do so. (R. S. c. 42, § 38. 1961, c. 317, § 114.)

Effect of amendment.—The 1961 amendment substituted “for equitable relief” for “in equity” in the last sentence of this section.

Sec. 39. First meeting of new corporation; may adopt new name; possession and use of mortgaged property.—The new corporation may call its first meeting in the manner provided for calling the first meeting of the original corporation, and may use therefor the old name, or by a notice, signed by one or more of said bondholders, setting forth the time, place and purpose of the meeting, a copy of which is to be published in a newspaper, in the county, if any, otherwise in the state paper, 7 days before the meeting; but, at that meeting, it may adopt a new name by which it shall always thereafter be known. It may take and hold the possession and have the use of the mortgaged property, although an action for equitable relief to redeem is pending, and it may become a party defendant to such action. This section applies to all corporations mentioned in section 54. (R. S. c. 42, § 39. 1961, c. 317, § 115.)

Effect of amendment.—The 1961 amendment divided the first sentence of this section into two sentences and substituted “an action for equitable relief” for “a bill in equity” and “action” for “bill” in the present second sentence.

Rights of Purchasers under Sale.

Sec. 53. Courts have jurisdiction of all disputes.—The supreme judicial court and the superior court, in addition to the jurisdiction specifically conferred by this chapter, have jurisdiction of all other matters in dispute, arising under this chapter relating to trustees, mortgages and the redemption and foreclosure of mortgages; but not to take away any rights or remedies that any party has and may elect to enforce by any civil action. In all proceedings relating to trustees or to mortgages, their foreclosure and redemption, not otherwise specifically provided for, the law relating to trusts and mortgages of real estate may be applied. (R. S. c. 42, § 53. 1961, c. 317, § 116.)

Effect of amendment.—The 1961 amendment divided this section, which formerly consisted of one sentence, into two sentences; deleted “as in equity” formerly following “jurisdiction”; substituted “this chapter” for “the preceding section” and substituted “by any civil action” for “at law”.

Sec. 55. Holders of unpaid scrip and bonds may foreclose mortgages.—A corporation formed by the holders of such scrip or bonds, or if no such corporation has been formed, the holders of not less than a majority of such scrip or bonds, may commence a civil action to foreclose such mortgage, and the court may decree a foreclosure thereof, unless the arrears are paid within such time as the court orders. (R. S. c. 42, § 55. 1961, c. 317, § 117.)

Effect of amendment.—The 1961 amendment substituted “civil action” for “suit in equity” in this section.

Sec. 59. When franchise lost, action for dissolution.—Whenever any railroad corporation, by foreclosure of a mortgage or in any other method authorized by law, has finally parted with its franchise to construct, operate and maintain the railroad described in its charter, any stockholder may maintain a civil action in the superior court for the winding up of the affairs and dissolution of such corporation. In such case the court shall order such notice to all parties interested as it may deem proper and proceed according to the usual course of such civil actions; but no trustee shall be appointed, except upon motion of some party to the proceedings, and then only in the discretion of the court. (R. S. c. 42, § 59. 1961, c. 317, § 118.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “a suit in equity”, deleted “supreme judicial court or in the” formerly preceding “su-

perior court,” and substituted “such civil actions” for “suits in equity” in this section.

Safety Provisions.

Sec. 62. Violation of section 61.—A railroad corporation violating any provision of section 61 forfeits for each offense, \$100 to the state, to be recovered in a civil action or by complaint and indictment; and the attorney general shall prosecute therefor. Said section does not apply to street railroads. (R. S. c. 42, § 62. 1961, c. 317, § 119.)

Effect of amendment.—The 1961 amendment substituted “section 61” for “the preceding section” and “a civil action” for “an

action on the case” in the first sentence of this section.

Sec. 70. Disorderly conduct on any public conveyance.—Any person in a state of intoxication and not in the custody of an officer who enters or remains in or on or loiters about the rolling stock, stations, station grounds, waiting rooms, platforms or yards of any steam railroad, bus or other public transportation system or the right-of-way, bridges or tracks of any steam railroad or the boats, wharves or ships of any steamboat or ferry company, and any person who behaves in a disorderly or riotous manner or drinks intoxicating liquors or uses indecent or profane language in any such place, car, vehicle or boat is guilty of a breach of the peace and shall be punished by a fine of not less than \$5 nor more than \$500, or by imprisonment for not less than 30 days nor more than 11 months, in addition to any other penalty provided by law. (R. S. c. 42, § 70. 1961, c. 395, § 25.)

Effect of amendment.—The 1961 amendment, effective upon its approval, June 17,

1961, deleted “or street” following “steam” and before “railroad”.

Sec. 75-A. Walks and handrails on railroad bridges.—The public utilities commission shall have the right, upon complaint and after hearing, to require any common carrier by railroad to equip their bridges and trestles with suitable walks and handrails if after such hearing the public utilities commission finds that such walks and handrails are necessary for the safety of the public or railroad employees. (1957, c. 194.)

Sec. 76. Method of heating cars approved; penalty.—No passenger, mail or baggage car on any railroad in the state shall be heated by any method of heating or by any furnace or heater, unless such method or the use of such furnace or heater shall first have been approved in writing by the public utilities commission. In no event shall a common stove be allowed in any such car. Any railroad corporation may, with the permission of said commission, make such experiment in heating their passenger cars as said commission may deem proper.

Any railroad corporation violating any provision of this section forfeits not more than \$500. (R. S. c. 42, § 76. 1957, c. 397, § 31.)

Effect of amendment.—The 1957 amendment made two former provisos

into separate sentences and added the last paragraph.

Sec. 77. Repealed by Public Laws 1955, c. 52.

Sec. 78. Repealed by Public Laws 1957, c. 397, § 32.

Sec. 90. Crossing designated.—The public utilities commission shall designate by general orders, which may be issued without formal notice or hearing, the grade crossings in this state at which, from all points on the highway or other way within 300 feet of such crossings and on either side thereof measured along said highway or way, a traveler on the way carrying such crossing can have a fair view of an approaching train, engine or car continuously from the time such train, engine or car is 300 feet from such crossing until it has passed over the same, either under existing conditions or by bushes, trees, fences, signboards or encroachments being trimmed, cut down or removed, as hereinafter provided. (R. S. c. 42, § 89. 1955, c. 36, § 1.)

Effect of amendment.—The 1955 amendment substituted “300” for “150” in line four.

Sec. 91. Municipal officers, county commissioners or state highway commission, on order of commission, to remove obstructions; 10 days’ notice to be given to interested parties.—At every crossing of a highway or other way excepting state and state aid highways and a railroad at grade and at every crossing of a highway or other way excepting state and state aid highways, the municipal officers of the town or county commissioners in the case of unorganized places in which the crossing is located are given authority and are required, when by order directed to do so by the public utilities commission, after 10 days’ notice to all persons interested, to remove embankments and other obstructions within highway limits and to enter upon private property and properly trim, cut down, remove or apply chemical treatment to bushes, and from time to time as may be necessary to cut down and remove trees, fences, signboards and encroachments which obstruct the view of an engine, train or car by a traveler at or near any such crossing. At every grade crossing on state and state aid highways, when by order directed to do so by the public utilities commission, the state highway commission shall properly trim, cut down, remove or apply chemical treatment to bushes, and properly trim, cut down and remove trees, also remove signboards which obstruct the view of an engine, train or car by a traveler at or near such crossing, and shall from time to time as may be necessary keep obstructions removed therefrom. The authority of the commission in any order and of the municipal officers, county commissioners or the state highway commission acting thereunder shall not extend beyond the land bounded by a line from a point 300 feet on either side of any such crossing measured along the highway or other way and a point 300 feet on either side of any such crossing measured along the railroad right-of-way, the purpose being to enable a traveler on any such way, when such traveler is 300 feet or less distant from any such crossing, to have a fair view of an approaching train, engine or car from one or more angles continuously from the time such train, engine or car is 300 feet from such crossing until it has passed over the same. (R. S. c. 42, § 90. 1955, c. 36, § 2. 1957, c. 6, § 1. 1959, c. 98, § 1.)

Effect of amendments. — The 1955 The 1957 and the 1959 amendments reamendment substituted “300” for “150” in wrote this section. two places in the present third sentence.

Sec. 92. Expense of removal paid by municipality; partial reimbursement by state.—Within such time as said commission by order directs, such municipal officers or county commissioners shall cause such bushes to be cut down and removed, or chemically treated and shall cause such trees, fences, signboards or other encroachments to be trimmed, cut down or removed and from time to time as may be ordered by said commission to keep the same trimmed, cut down or removed, and the expense thereof shall in the first in-

stance be paid by the municipality wherein the labor is performed, but upon the filing with the public utilities commission of proper proof of such payment, 1/2 of any such amount shall be repaid by the state to such municipality, the same to be paid out of the appropriation for the operation of the public utilities commission. Any expense incurred by the state highway commission in applying chemical treatment, or to properly trim, cut down or remove and from time to time as may be necessary to keep trimmed, cut down and removed, bushes, trees and signboards, shall be borne by said state highway commission. (R. S. c. 42, § 91. 1957, c. 6, § 2. 1959, c. 98, § 2.)

Effect of amendments. — The 1957 amendment added the last sentence to this section.

The 1959 amendment rewrote this sec-

tion, adding the provisions as to chemical treatment and making the section applicable to counties.

Sec. 96. Orders of commission. — All orders of the commission made under the provisions of this chapter may be enforced in the manner provided in chapter 44. The superior court is given full jurisdiction to enforce compliance with any order issued by the public utilities commission under this chapter. It shall be the duty of said commission to see that the rights of the public under the provisions of this chapter are fully protected. (R. S. c. 42, § 95. 1959, c. 317, § 20.)

Effect of amendment.—The 1959 amendment rewrote the second sentence of this section.

Effective date and applicability of Public Laws 1959, c. 317. — Section 420, chapter 317, Public Laws 1959, provides as follows: "This act shall become effective December 1, 1959. It shall apply to all actions brought after December 1, 1959 and also to all fur-

ther proceedings in actions at law or suits in equity then pending, except to the extent that in the opinion of the court the application of this act in a particular action pending on December 1, 1959 would not be feasible or would work injustice, in which event the laws in effect prior to December 1, 1959 would prevail."

Sec. 98-A. Operation of diesel or diesel-electric locomotives in reverse or backing up position prohibited.—No railroad corporation operating diesel or diesel-electric locomotives in the state shall be permitted to operate such locomotives in reverse or backing up position on any passenger or freight train on any main line or branch line, except that such locomotives may be operated in reverse in emergencies, while doing switching operations, while operating in turn-around service, and except where no facilities are available for turning such locomotives at the point of departure. Any railroad corporation violating this section shall be punished by a fine of \$100 for each violation. (1957, c. 324. 1961, c. 190.)

Effect of amendment.—The 1961 amendment deleted "or" following "emergencies" near the middle of this section, substituted "while operating in turn-around service,

and except" for "and excepting" below the middle of the first sentence, and deleted "the provisions of" formerly preceding "this section" in the last sentence.

Railroad Equipment.

Sec. 104. Capital expenditures.—All railroads operating in this state shall file a report on or before May 1st of each year with the department of economic development stating capital expenditures made during the previous calendar year and specifying, with reasonable detail, the capital improvements made, including a description by type and use of new rolling stock and other equipment acquired. (1961, c. 368, § 3.)

Chapter 47.

Street Railroads.

Secs. 1-39. Repealed by Public Laws 1957, c. 85, § 3.