

MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

1961 CUMULATIVE SUPPLEMENT

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THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1961

Sec. 14. Vessels to comply with provisions of this chapter; navigating contrary to provisions; accidents investigated.—Every vessel described in section 7 shall comply with all the terms and provisions of this chapter and with all orders, regulations and requirements of the commission. If any such vessel is navigated without complying therewith or without the certificate of the commission, the owners and master, severally, shall forfeit to the state \$500 for each offense, half thereof to the informer, unless otherwise provided, for which sum the vessel so engaged is liable and may be proceeded against by attachment in a civil action commenced within 60 days after the commission of the offense, or said penalty may be recovered by indictment. In case of damage by collision, fire or explosion, the commission shall forthwith, and in other cases in its discretion the commission may, investigate the cause thereof, and if found to have been occasioned by a violation of any of the aforesaid provisions or of the orders, regulations and requirements of said commission, they shall so certify to the attorney general and to the county attorney in the county where the offense was committed, together with the names of the parties and witnesses, and prosecution shall be instituted forthwith against all parties liable. If any such vessel is deprived of the services of any licensed officer, without the consent, fault or collusion of the master, owner or any person interested in the vessel, the deficiency may be supplied temporarily until another licensed officer can be obtained. Provided, however, that if the owners and master of such vessel seasonably notify the commission of the expiration of its certificate and request a new inspection and certificate and said commission fails to make said inspection and issue said certificate when the vessel is entitled thereto, such owners or master are not liable for any of the penalties provided in this chapter on account of navigating such vessel without a certificate of inspection. (R. S. c. 45, § 14. 1961, c. 317, § 123.)

Effect of amendment.—The 1961 amendment divided the first sentence of this section into two sentences and substituted “a civil action” for “a qui tam action.”

Chapter 50.

Electric and Gas Companies. Telegraph and Telephone Companies.

Transmission of Electric Power beyond State Prohibited.

Secs. 1-2. Repealed by Public Laws 1955, c. 402.

Organization of Telegraph, Telephone, Television, Electric and Gas Companies.

Sec. 3. Organization of telegraph, telephone, television, electric and gas companies.—Corporations for the operation of telegraphs or telephones, and corporations for the operation of both telegraphs and telephones, and corporations for the transmission of television signals by wire, and corporations for the purpose of making, generating, selling, distributing and supplying gas or electricity, or both, for lighting, heating, manufacturing or mechanical purposes, in any city or town, or two or more adjoining cities or towns, within the state, or for either or any of such purposes, may be organized under the provisions of sections 8 to 15, inclusive, of chapter 53. No corporation so organized, or person or association shall have authority, without the consent of the public utilities commission, to furnish its service in or to any city or town in or to which another corporation, person or association is furnishing or is authorized to furnish a similar service. Any corporation authorized to make, generate, sell, distribute and supply electricity may sell and distribute electricity to any other corporation similarly authorized. (R. S. c. 46, § 3. 1951, c. 142, § 1. 1961, c. 395, § 26.)

Effect of amendment.—The 1961 amendment, effective upon its approval, June 17, 1961, divided the former last sentence into two sentences and deleted “and may

sell and distribute electricity to any street railroad company” at the end of the present last sentence.

Sec. 7. Repealed by Public Laws 1955, c. 260.

Powers and Restrictions. Miscellaneous Provisions.

Sec. 11. Telegraph, telephone and television companies may pass along highways and across waters on route.

Source of installation rights.—Since the Public Laws of 1895, c. 102, §§ 5, 8, c. 103, § 4 (now, substantially, R. S. c. 1954, c. 50, §§ 11, 14, 37) the source of installation rights of utilities in public ways

without special charters is legislative by general grant with permits subject to the proper discretion of public officers. *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 12. Corporations may lay pipe lines.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 13. Water companies may lay pipes.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 14. Gas and electric companies may pass along highways.

Source of installation rights.—Since the Public Laws of 1895, c. 102, §§ 5, 8, c. 103, § 4 (now, substantially, R. S. c. 1954, c. 50, §§ 11, 14, 37) the source of installation rights of utilities in public ways

without special charters is legislative by general grant with permits subject to the proper discretion of public officers. *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 16. Before laying pipes and wires, corporation to obtain permit of municipal officers.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 17. Certain corporations authorized to place wires, pipes, cables, etc., under surface of streets, subject to permit from municipal officers.

Quoted in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 18. Validity clause.

Quoted in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 25. Poles, lines and fixtures so constructed as not to incommode public travel or interfere with ornamental trees.

Quoted in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 27. Telegraph or telephone companies may connect with other lines; may take land as for public uses.

Stated in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 28. Gas companies to furnish gas for power.

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Duties of Telegraph Companies.

Sec. 34. Liability of owners of telegraphs for errors or delays in sending dispatches; falsifying or divulging contents of dispatch. — A person or company owning or using a line of telegraph, wholly or partly in the state, for any error or unnecessary delay in writing out, transmitting or delivering a dispatch within its delivery limits, making it less valuable to the person interested therein, is liable for the whole amount paid on such dispatch. All dispatches shall be transmitted in the order in which they are received, under a penalty of \$100 to be recovered by the person whose dispatch is willfully postponed. An operator or agent who designedly falsifies a dispatch forfeits not less than \$20 nor more than \$100, to be recovered in a civil action, and in case of his avoidance or inability to pay such judgment, the person or company employing him forfeits a like sum. If such operator or agent willfully divulges any part of the contents of a private dispatch entrusted to him for transmission or delivery, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 3 months. (R. S. c. 46, § 28. 1961, c. 317, § 124.)

Effect of amendment.—The 1961 amendment divided this section, which formerly consisted of one sentence, into four sentences and substituted “a civil action” for “an action of debt” therein.

Regulation of Poles and Wires.**Sec. 36. Companies subject to duties and liabilities prescribed herein.**

Cited in *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 37. Permit from municipal officers or county commissioners to construct lines; lines so erected are legal structures; proceedings and right of appeal.

Source of installation rights.—Since the Public Laws of 1895, c. 102, §§ 5, 8, c. 103, § 4 (now, substantially, R. S. c. 1954, c. 50, §§ 11, 14, 37) the source of installation rights of utilities in public ways without special charters is legislative by general grant with permits subject to the proper discretion of public officers. *First Nat. Bank of Boston v. Maine Turnpike Authority*, 153 Me. 131, 136 A. (2d) 699.

Sec. 39. Determination of damages; recovery of award and costs.

—An owner of land near to or adjoining a highway or road along which lines shall hereafter be constructed, erected or altered in location or construction by any company, person or association, if said owner's property is in any way injuriously affected or lessened in value, whether by occupation of the ground, on air or otherwise by such construction, alteration or location of any such line, whether such owner is also the owner of the fee in such way or not, may within 6 months after such construction, alteration or location apply to the mayor and aldermen or selectmen to assess and appraise the damage. Before entering upon the service, they shall severally be sworn to faithfully and impartially perform the duties required of them by this section. They shall on view make a just appraisal in writing of the loss or damage, if any, to the applicant, sign duplicates thereof, and on demand deliver 1 copy to the applicant and the other to the company or its agent. If damages are assessed, the company shall pay the same, with the costs of the appraisers. If the appraisers award that the applicant has suffered no damage, he shall pay the costs of the appraisers. The award and costs may be recovered in a civil action, if not paid in 30 days after written de-

mand therefor served upon the company or any of its agents. The superior court for the county shall have jurisdiction thereof and full costs shall be allowed. Before entering upon the discharge of their duties under the provisions of this section, such municipal officers may require the applicant to advance to them their fees for 1 day and from day to day thereafter. (R. S. c. 46, § 33. 1961, c. 317, § 125.)

Effect of amendment.—The 1961 amendment divided the former sixth sentence of this section into two sentences and substi-

tuted "a civil action" for "an action of debt" in the present sixth sentence.

Sec. 40. Party aggrieved by assessment of damages may appeal; determination.—Either party aggrieved by the assessment of damages may, within 20 days after the award, appeal therefrom to the superior court. The appellant shall when the 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. After entry, the matter shall be determined by a jury, or by the court by agreement of parties, in the same manner as other civil actions. If the company is the appellant and the award is not decreased, the costs shall be paid by the company. If the applicant appeals and the award is not increased, the costs shall be paid by the applicant. (R. S. c. 46, § 34. 1959, c. 317, § 23.)

Effect of amendment.—The 1959 amendment rewrote 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. 42. Permits required to move buildings, cut wires and remove poles; expenses; damages.

In case any way or bridge is damaged by reason of the moving of a building, the municipal officers shall determine what proportion of such damage shall be paid by the owner of said building, and the same may be recovered by the town in a civil action against the owner of said building. (R. S. c. 46, § 36. 1961, c. 317, § 126.)

Effect of amendment.—The 1961 amendment substituted "a civil action" for "an action of debt" in the last paragraph of this section.

As the rest of the section was not affected by the amendment, only the last paragraph is set out.

Sec. 44. Revocation of location; new location; joint use of poles; apportionment of expenses; orders and decisions in writing; long distance telephone lines excepted.—Whenever the municipal officers of any city or town having a population of more than 40,000 inhabitants, in which any person, firm or corporation maintains wires attached to poles located in any public street or way for conveying electric current or for the transmission of telephone or telegraph messages, determine, after notice and hearing, that public safety and the public welfare require the revocation of any location for poles already erected in any public street or way, they may revoke any such location and order such poles removed, which shall be done within a reasonable time by the person, firm or corporation owning said poles; provided, however, that other suitable locations or the right to use other poles jointly shall be granted by the municipal officers to such person, firm or corporation. The municipal officers of such cities and towns may, after notice and hearing, order the wires of any person, firm or corporation used for conveying electric current or the transmission of telephone or telegraph messages and attached to poles located in any public street or way of such city or town to be removed and attached to such other poles, however

owned and controlled, legally located in the public streets or ways, as said municipal officers may designate; provided that in their judgment such change is practicable and can be made without unreasonably interfering with the business of any person, firm or corporation. Before revoking any such location or ordering the removal of any poles or wires, public notice of the hearing shall be given to all persons interested by publication in some newspaper printed in said city or town, if any, the last publication to be 14 days before the hearing; if no newspaper is printed in said city or town, said publication shall be in some newspaper printed in the county; personal notice shall be given to the owners of said poles and wires 14 days before the hearing. The municipal officers may establish such regulations as they deem necessary for the joint use of such poles, and in case the several parties so using such poles cannot agree as to the proportionate share each shall bear of the original cost and of the expense of maintaining such poles, or a proper annual rental for the use of the same, the municipal officers may, after hearing the parties, determine the proportionate part of such expense each party shall justly bear or a proper rental therefor. Personal notice shall be given to each party 14 days before the hearing. The owner of such poles may recover, in a civil action of each party so using such poles, his share of such cost and expense or the rental as determined by the municipal officers. All orders and decision of the municipal officers under this section shall be in writing and a record thereof shall be made by the city or town clerk, and the service of a copy thereof, attested by the clerk, upon the parties affected thereby shall be sufficient notice to the party so affected to render compliance obligatory. Provided, however, that this section shall not apply to long distance telephone wires or lines of poles used for the support thereof; and for the purpose hereof no wire shall be deemed to be a long distance telephone wire which does not extend 20 miles at least in a direct line from a central office. (R. S. c. 46, § 38. 1961, c. 317, § 127.)

Effect of amendment.—The 1961 amendment divided the former fourth sentence of this section into three sentences and substituted “a civil action” for “an action of

assumpsit” in the present sixth sentence.

Cited in First Nat. Bank of Boston v. Maine Turnpike Authority, 153 Me. 131, 136 A. (2d) 699.

Sec. 45. Party aggrieved may appeal to the superior court; appointment of committee and proceedings at hearing; acceptance of report.
—Any party aggrieved by any order or decision of the municipal officers relating to the joint use or occupation of poles or by any of the regulations established by the municipal officers of said city or town relating to the joint use of poles, or by their decision as to his proportionate share of the original cost, or the cost of maintaining any joint poles, or the annual rental for the use of the same, may appeal from such orders, decisions or regulations of the municipal officers at any time, within 10 days after service of notice of the same, to the superior court in the county. The appellant shall, when such appeal is taken, include in the complaint a statement setting forth substantially the facts of the case, and the orders, decisions or regulations of the municipal officers from which he appeals and in what respect he is aggrieved thereby; and shall give written notice of such appeal with a copy of the complaint to the opposite party. The presiding justice at the first term of said court shall appoint 3 disinterested persons, not residents of the city or town named in the complaint, who shall, within 30 days after their appointment, after due notice and hearing, affirm the orders and decisions of the municipal officers, or amend or modify the same, or make new and further orders, decisions and regulations governing such joint use of such poles by any of the parties to the proceedings, or in relation to the proportionate share of the expense to be borne by each party using such joint poles, or the just and fair rental therefor. Their report, which shall be filed with the clerk of said court, upon being accepted by any justice of the superior court, shall be final and binding on all parties to the proceedings, except that questions of law arising under such

proceedings may be reserved for decision by the law court. Any person affected by any order or decision of the municipal officers, who is not joined in the original complaint, may, on motion to the superior court, be joined therein at any time before hearing by the committee appointed under this section. (R. S. c. 46, § 39. 1959, c. 317, § 24. 1961, c. 317, § 128.)

Effect of amendments. — The 1959 amendment rewrote the first and second sentences of this section.

The 1961 amendment divided the former third sentence of this section into two sentences and deleted "in term time or in vacation" formerly following "superior court"

therein. It also substituted "motion" for "petition" and deleted "the provisions of" formerly preceding "this section" in the last sentence.

Effective date of 1959 amendment.—See note to § 40.

Sec. 46. Power and authority conferred are additional.

Cited in First Nat. Bank of Boston v. Maine Turnpike Authority, 153 Me. 131, 136 A. (2d) 699.

Chapter 50-A.

Natural Gas Pipe Line Companies.

Sec. 1. Declaration of policy.—It is hereby declared that the business of transporting natural gas within the state by interstate or intrastate natural gas pipe line companies is affected with the public interest and that the health, safety and welfare of the inhabitants of the state require regulation in matters relating to the transportation of natural gas to the extent hereinafter provided. (1955, c. 127, § 3.)

Sec. 2. Power to construct and operate natural gas pipe line.—Any corporation organized under the laws of this state or of any other state or of the United States for the purpose of constructing and operating a natural gas pipe line, which corporation holds a certificate of public convenience and necessity issued under the provisions of the federal natural gas act approved June 21, 1938, as it now reads, or may hereafter be amended, authorizing such corporation to construct and operate a natural gas pipe line or pipe lines and appurtenant facilities within this state, is hereby authorized, upon compliance with all applicable provisions of this chapter, to purchase, hold and convey such real estate and personal property as shall be necessary for the purposes for which it was created. Corporations for the purpose of constructing and operating natural gas pipe lines, or for either of such purposes, may be organized under the provisions of sections 8 to 15, inclusive, of chapter 53. (1955, c. 127, § 3. 1957, c. 59.)

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

Sec. 3. Filing of certificate of public convenience.—Any corporation which intends to construct or operate any natural gas pipe line within this state shall file with the secretary of state a certified copy of the certificate of public convenience and necessity issued to such corporation under the federal natural gas act, such filing to be at least 30 days before the start of construction. (1955, c. 127, § 3.)

Sec. 4. Eminent domain.—Upon the filing of the certificate of public convenience and necessity as required in section 3, and in the case of a corporation organized under the laws of any state other than Maine upon compliance with the applicable provisions of chapter 53, such corporation shall be authorized and empowered to take and hold by right of eminent domain such lands or rights therein as may be necessary in the safe, economical and efficient opera-