

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

Constitution of the State of Maine as Amended

ARTICLE I.

DECLARATION OF RIGHTS.

§ 1. Equality and rights of man.

Statute relieving municipality from liability for snow or ice on sidewalk.—Chapter 96, § 92, which relieves a municipality from liability to an action for damages to any person on foot on account of snow or

ice on any sidewalk or crosswalk, is not unconstitutional as being in violation of this section. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

§ 6. Rights of persons accused.

II. RIGHT TO DEMAND NATURE AND CAUSE OF ACCUSATION.

It is within the power of legislatures to prescribe the form of indictments and such forms may omit averments regarded as necessary at common law. But the legislature, while it may simplify the form of

indictment, cannot dispense with the necessity of placing therein a distinct presentation of the offense containing allegations of all of its elements. *State v. Popolos*, 150 Me. 46, 103 A. (2d) 511.

Indictment for reckless driving.—See note to c. 22, § 148.

§ 21. Taking private property for public use.

I. GENERAL CONSIDERATION.

The legislature may entrust the power of eminent domain to instruments of its choosing, such as a public body corporate and politic exercising public and essential governmental functions. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

III. PROPERTY CAN BE TAKEN ONLY FOR PUBLIC USE.

A. In General.

And is determined by the courts.

In accord with 4th paragraph in original. See *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

Courts must consider existing conditions.—In determining whether a given use is public in nature, the court must consider existing conditions. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

B. What Constitutes Public Use.

State constitution is not broader than constitution of U. S.—The provisions of the state constitution are not of a broader scope than the fourteenth amendment to the United States constitution with respect to the scope of "public use." *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

Public use and public advantage are dis-

tinguished.—The principle that "public use" in eminent domain means use by the public, or employment by the public, in contrast with public advantage, is well and firmly established. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

It is not necessary that an active use be contemplated in a taking by eminent domain. The use may be negative in character. The prevention of evil may constitute a use, and as here a public use. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

Slum clearance of blighted areas is public use.—Slum clearance of blighted areas for the public health, morals, safety and welfare is a "public use" within the meaning of the constitution. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

But redevelopment of city is not.—Taken alone, the redevelopment of a city is not a "public use" for which either taxation or taking by eminent domain may properly be utilized. *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

IV. TAKING MUST BE REQUIRED BY PUBLIC EXIGENCIES.

And its determination is final, etc.

In accord with 1st paragraph in original. See *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

ARTICLE IV.

PART THIRD.

LEGISLATIVE POWER.

§ 1. Biennial meetings and general powers.

Quoted in *Crommett v. Portland*, 150 Me. 217, 107 A. (2d) 841.

ARTICLE VI.

JUDICIAL POWER.

§ 3. Opinions to be given when required by either branch of government.

Applied in *Opinion of the Justices*, 150 Me. 362, 105 A. (2d) 454.

ARTICLE IX.

GENERAL PROVISIONS.

§ 8. Taxes apportioned and assessed according to valuation; levy on intangibles.

Percentage of true value taken for taxation purposes must be uniform and equal.—The law requires equality, and requires that each property owner pay his just proportion of taxes. The law requires that real estate and tangible personal property be valued on an equal basis “according to the just value thereof.” The law requires that there be no favoritism nor discrimina-

tion. The law requires that when a percentage of the true value is taken for taxation purposes, the percentage be uniform and equal on all real estate and tangible property. *Sears, Roebuck & Co. v. Presque Isle*, 150 Me. 181, 107 A. (2d) 475.

Assessment held proper.—See *Sears, Roebuck & Co. v. Presque Isle*, 150 Me. 181, 107 A. (2d) 475.

§ 15. Municipal indebtedness limit.

Provision added to section by amendment LXXIII was eliminated by amendment LXXVI.—Amendment LXXVI, proclaimed September 21, 1954, which raised the limitation upon municipal indebtedness from 5% to 7½%, failed to include in this section as amended the provision added by amendment LXXIII, proclaimed September 26, 1951, to the effect that “long term rental agreements not exceeding forty years under contracts with the Maine School Building Authority shall not be debts or liabilities within the provisions of this article.” Thus the exemption provision added by amendment LXXIII was effectively removed from this section and repealed by amendment LXXVI. *Opinion of the Justices*, 150 Me. 362, 105 A. (2d) 454.

But contracts entered into before proclamation of amendment LXXVI are not affected.—Contracts between municipalities and the Maine School Building Authority entered into between September 26, 1951 and September 21, 1954, within the terms of amendment LXXIII, adopted

in 1951, would not be affected by amendment LXXVI, proclaimed on September 21, 1954. *Opinion of the Justices*, 150 Me. 362, 105 A. (2d) 454.

And indebtedness exempt when incurred is not counted as part of municipal debt.—The removal from the constitution of the exemption of debts incurred under contracts with the Maine School Building Authority does not require that those debts which were exempt from municipal indebtedness under this section, when incurred, must now be counted as part of the municipal debt of any municipality which has contracted with the authority. *Opinion of the Justices*, 150 Me. 362, 105 A. (2d) 454.

Quasi municipal corporation not limited by section.—The Bangor recreation center is a quasi municipal corporation, the available borrowing capacity of which is not limited by the constitutional debt limit of the city of Bangor. *Carlisle v. Bangor Recreation Center*, 150 Me. 33, 103 A. (2d) 339.