

# MAINE STATE LEGISLATURE

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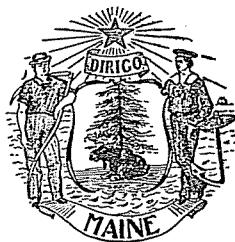
THE  
REVISED STATUTES

OF THE  
STATE OF MAINE,

PASSED SEPTEMBER 1, 1903, AND TAKING EFFECT JANUARY 1, 1904.

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BY THE AUTHORITY OF THE LEGISLATURE.



AUGUSTA :  
KENNEBEC JOURNAL PRINT,  
1904.

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—proceedings.

thereupon the carrier shall be authorized to delay the transportation for the space of five days, and unless within such five days such claimant shall replevy such property, or if he shall fail to give such written notice, the carrier is authorized to proceed with the transportation of such property and shall not be liable for so transporting.

## CHAPTER 55.

### TELEGRAPH AND TELEPHONE COMPANIES, GAS, AND ELECTRIC LIGHT AND POWER COMPANIES.

Telegraph and telephone companies. 1895, c. 103, § 1, and other electrical, and gas companies may be organized under c. 47. 1895, c. 102, § 1. See c. 47, § 1.

—gas or electric company shall not operate in any city or town where a company is already established, without act of legislature. 1901, c. 273.

Certificate of telegraph or telephone company shall set forth route. 1895, c. 103, § 2.

—of gas or electric company shall specify cities and towns where corporation proposes to do business. 1895, c. 102, § 2.

May hold real estate. 1895, c. 102, § 4.

Telegraph and telephone companies may pass along highways and across waters on route. 1895, c. 103, §§ 3, 4. 1903, c. 141. 94 Me., 214.

—gas and electric companies may pass along highways. 1895, c. 102, § 5.

SEC. 1. Corporations for the operation of telegraphs or telephones, and corporations for the operation of both telegraphs and telephones, 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 five to ten inclusive of chapter forty-seven. But no corporation, so organized, shall have authority, without special act of the legislature, to make, generate, sell, distribute or supply gas or electricity, or both, for any purpose, in or to any city or town, in or to which another company, person or firm are making, generating, selling, distributing or supplying, or are authorized to make, generate, sell, distribute or supply gas or electricity, or both.

SEC. 2. The certificate provided by section eight of chapter forty-seven to be prepared and filed in the secretary of state's office, by such telegraph or telephone company shall set forth, in addition to the statements required by said section, the general route of telegraph or telephone lines proposed to be constructed by such corporation and the points to be connected thereby; and the certificate to be prepared and filed by such gas or electric company shall specify, in addition to the statements required by said section, the city or town, or the adjoining cities or towns within which said corporation proposes to make, generate, sell, distribute or supply gas or electricity, or both, for the purposes named in section one of this chapter, and no corporation so organized shall be authorized to make, generate, sell, distribute or supply gas or electricity, in any city or town not specified in said certificate.

SEC. 3. Corporations organized under this chapter may purchase, hold and convey such real estate and personal property as shall be necessary for the purposes for which they are created.

SEC. 4. Every corporation organized hereunder for the purpose of operating telegraphs or telephones, may, except as herein limited, construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in this chapter, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along such route or routes, with all necessary erections and fixtures therefor. Every corporation organized hereunder for the purpose of making, generating, selling, distributing and supplying gas or electricity for the purposes named

in this chapter, may lay its pipes and wires and construct and maintain its lines in, upon, along, over, across and under the roads and streets in any city or town in which it is authorized to supply gas or electricity, or both, subject, however, to the conditions and under the restrictions provided in this chapter. No corporation organized hereunder shall have authority, except by special act of the legislature, to take, appropriate or use, the location, pipes, lines, land or other property of any other corporation, person or firm, doing or authorized to do a similar business, without consent of such other corporation, person or firm.

SEC. 5. No such corporation shall lay its pipes or place its wires under the surface of any road or street, or dig up or open the ground in any road or street, until it shall have obtained as prescribed in the following section a permit in writing from the municipal officers of the city or town in which such road or street is located, which permit shall be signed by such municipal officers, and shall specify the roads and streets and the location therein in which such pipes or wires shall be laid; but such permit shall not affect the right of any party or parties to recover damages for any injury to persons or property by the doings of any such corporation.

SEC. 6. Telegraph, telephone, gas, electric light, heat or power companies chartered by special act of legislature or organized under the general laws of the state, and all such companies, wherever chartered or organized, engaged in the business of transmitting intelligence, heat, light or power by electricity, or of furnishing gas for light, heat or power, may, in any city or town, place their pipes, wires and cables and all conduits and other structures for conducting and maintaining such wires and cables under the surface of those streets and highways in which such companies are empowered to obtain locations for their pipes, poles and wires; subject, however, to the written permit therefor of the municipal officers of such city or town, and subject also to such rules and regulations as to location and construction as such municipal officers may designate in their permit. Proceedings for obtaining such permit shall be had in accordance with the provisions of the last nine sections of this chapter relating to the location of posts and wires in public ways. But permits to open streets and highways for the purpose of relaying or repairing such pipes, wires, cables, conduits and other structures may be granted without notice.

SEC. 7. Any such corporation digging up and opening such roads and streets, shall do so in such a manner as to cause the least possible interference with public travel, and shall put all such highways, roads and streets which it shall dig into and open, into as good repair as they were before they were dug into and opened; and on failure to do so within a reasonable time, such corporation shall be deemed guilty of causing a public nuisance, and shall be liable to the city or town for all expenses incurred in making such repairs.

SEC. 8. Every such corporation shall so construct and maintain its poles, lines, fixtures and appliances in, along, over, under and across the roads and streets, in which it may obtain locations, and across or under any of the waters upon and along its route or routes, as not to incommode the use of such roads and streets for public travel, or interrupt the navigation of such waters; and *provided, further*, that no such corporation shall injure, cut down or destroy any fruit tree, or any tree or shrub standing and growing for the purposes of shade or ornament; but this chapter shall not be so construed as to authorize the construction of any bridge across any of the waters of the state.

—lines already located, shall not be taken without authority of legislature, or consent of owners.  
1895, c. 103, § 7.  
1895, c. 102, § 5.

Before laying pipes and wires, shall obtain permit of municipal officers.  
1895, c. 102, § 6.

Telegraph, telephone, light, heat and power corporations authorized to place wires, etc., under surface of streets.  
1901, c. 168.

—how permits may be obtained.

Shall not obstruct public travel in opening streets.  
1895, c. 102, § 7.

Poles, lines and fixtures shall be so constructed as not to incommode public travel.  
1895, c. 102, § 8.  
1895, c. 103, § 4.

—or interfere with ornamental trees.

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Authorized to issue bonds, and mortgage property, and franchise. 1895, c. 102, § 9. 1895, c. 103, § 5.

Liability for damages. 1895, c. 102, § 10.

Telegraph or telephone companies may connect with other lines. 1895, c. 103, § 6. —may take land as for public uses. 1895, c. 103, § 7. R. S., c. 53, § 4. —damages, how estimated.

Telephone connections, how regulated. 1895, c. 378, § 9.

Gas companies authorized to furnish gas for power. 1895, c. 61.

Owners of telegraphs liable for errors or delays in sending dispatches: to be sent in the order that they are received under penalty. R. S., c. 53, § 1. 60 Me., 29, 33.

SEC. 9. Any corporation organized under the provisions of this chapter, by vote at a meeting of its stockholders called for the purpose, may issue coupon or registered bonds to provide means for constructing its lines and plant, funding its floating debt, or for the payment of money borrowed for any lawful purpose, and may mortgage or pledge, as security for the payment of the principal and interest of such bonds, a part or all of its property and franchise. Such bonds may be issued in sums not less than one hundred dollars each, payable at periods not exceeding twenty years from the date thereof, and bearing interest not exceeding six per cent a year, payable annually or semi-annually, to an amount which, including that of bonds previously issued, shall not exceed in all the capital stock of the corporation actually paid in at the time.

SEC. 10. Every corporation organized under the provisions of this chapter shall be liable in all cases, to repay any city or town all sums of money that said city or town may be obliged to pay on any judgment recovered against it for damages occasioned by any obstruction, digging up or displacement of any way or street by said corporation, together with counsel fees and expenses necessarily incurred in defending said town in actions therefor; *provided, however*, that said corporation shall have notice of the commencement of any and all suits for such damage, and such corporation shall have the right to defend any such action at its own expense.

SEC. 11. Every corporation operating a telegraph or telephone line in the state may connect its line or lines with those of any other like corporation, and may sell or lease its lines and property, in whole or in part, to any other like corporation, and may purchase or lease the line, or lines, and property, in whole or in part, of any like corporation, upon such terms as may be agreed upon by the contracting parties; and may purchase, or take and hold as for public uses, land necessary for the construction and operation of its lines. Land may be so taken and damages therefor may be estimated, secured, determined and paid as in case of railroads.

SEC. 12. Every corporation operating a telephone line in the state shall, upon the application of any other corporation operating a telephone line, allow to the corporation first making such application, connection between such lines upon the same rates as charged for the same distances upon the lines of the corporations so connecting, and with the same charges for use of telephone exchanges as established for the patrons of such corporations. Every corporation authorized by its charter to grant telephone privileges, including the leasing of instruments and other appliances, shall grant such privileges upon equal and uniform terms and conditions.

SEC. 13. All corporations in the state which are authorized to furnish gas for lighting may furnish gas for heating and for power, and proper appliances therefor, under the same conditions and with the same rights as they now furnish gas for lighting purposes.

SEC. 14. 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 one hundred dollars, to be recovered by the person whose dispatch is wilfully postponed; an operator or agent who designedly falsifies a dispatch, forfeits not less than twenty, nor more than one hundred dollars, to be recovered in an action of

debt; and in case of his avoidance or inability to pay such judgment, the person or company employing him forfeits a like sum; and if such operator or agent wilfully divulges any part of the contents of a private dispatch entrusted to him for transmission or delivery, he shall be fined not exceeding one hundred dollars, or imprisoned not more than three months.

SEC. 15. Nothing herein exonerates telegraph operators, agents, clerks or other officers, from liability for fraud committed or attempted by means of telegraphic communication; or the company from any liability existing at common law for the neglect or wrong-doing of such company or its agents. (a)

—penalty for falsifying or divulging contents of dispatch.

Officers responsible for frauds, and company subject to common law liabilities.  
R. S., c. 53, § 2.

## REGULATION OF POSTS AND WIRES.

SEC. 16. Every company incorporated for the transmission of intelligence, heat, light or power by electricity, and all persons and associations engaged in such business, shall be subject to the duties, restrictions and liabilities prescribed in the following sections.

SEC. 17. No such company, person or association shall construct lines upon and along highways and public roads, without first obtaining a written permit, signed by the mayor and aldermen in case of cities, the selectmen in case of towns, and the county commissioners in case of plantations and unorganized townships, specifying the kind of posts, where and how they shall be located and set, and the height of the wire above the ground; and if the line specified in the permit is a telephone line and is not constructed and public telephone service established in connection therewith within eighteen months from the time the decision is filed, the permit shall be void. Before granting such permit, fourteen days' public notice thereof shall be given, and residents and owners of property upon the highways to be affected thereby, shall have full opportunity to show cause why such permit should not be granted. Such public notice shall be given by publication in a county newspaper when the county commissioners are to act, and in some newspaper printed in such city or town, if any, the last publication to be fourteen days before said hearing; if in a town and no newspaper is printed therein, then by posting the same in some public and conspicuous place therein fourteen days before said hearing. When the application for such permit is filed, personal notice, if deemed necessary, may be ordered by such officers and shall be given by such company, persons or association to the residents and owners of property to be affected thereby. At the hearing such company, persons or associations, before proceeding, shall first prove that such order of notice has been complied with and public notice given as hereinbefore required, and the adjudication of the mayor and aldermen, selectmen or county commissioners that such personal and public notice has been given shall be final and conclusive. If from any cause the notice given appears to have been defective, said officers may order new notice, not exceeding seven days, and adjourn said hearing to a time named in said new order of notice. After the erection of the lines, having first given all persons interested an opportunity to be heard, such officers may direct any alteration in the original permit. Such permits, specifications and decisions shall be recorded in the records of the city, town or county commissioners. Posts and wires erected and maintained in accordance with the provisions of this section shall be deemed legal structures and the party maintaining the same shall be liable on account thereof only for carelessness or negligence in the erection or maintenance of the same. In case of plantations and

Electric companies subject to duties and liabilities prescribed herein.  
1885, c. 378, § 1.  
86 Me., 237.  
Permit to construct lines must be had from municipal officers or county com'rs.  
1885, c. 378, § 2.  
1903, c. 231, § 2.  
82 Me., 471.  
95 Me., 290.

—public notice required.

—personal notice may be required.

—defective notice.

—liability for lines so erected.  
1903, c. 133.

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—appeal  
may be filed.

unorganized townships any person or corporation interested may appeal from the decision of the county commissioners to the supreme judicial court in the manner provided in sections fifty-two, fifty-three, fifty-four and fifty-five of chapter twenty-three, relating to highways, and in case of cities and towns as follows: The decision of the mayor and aldermen or the selectmen shall be filed with the clerk of the city or town within one week from their final hearing; and within two weeks from such filing any person or corporation interested may appeal from their decision by filing notice of appeal with a copy of the original petition and adjudication with the clerk of the city or town and with the clerk of the board of county commissioners; the commissioners shall immediately entertain such appeal and give two weeks' public notice in a county newspaper of the time and place of hearing, which time shall be within thirty days from the time such appeal is filed; such hearing may be adjourned from time to time, not exceeding thirty days in all, and the commissioners shall file their decision within thirty days from the time the hearing is closed, and transmit a copy of the same to the clerk of the city or town, who shall forthwith record it.

Land and  
other dam-  
ages, how  
appraised.  
1885, c. 378, § 3.

SEC. 18. 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 any way injuriously affected or lessened in value, whether by occupation of the ground, or 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 six 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 one 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 an action of debt, if not paid in thirty days after written demand therefor served upon the company or any of its agents; the supreme judicial court for the county shall have jurisdiction thereof, and full costs shall be allowed. Before entering upon the discharge of their duties under this section, such municipal officers may require the applicant to advance to them their fees for one day and from day to day thereafter.

—award and  
costs, how  
recovered.

Wires may be  
cut and poles  
removed to  
allow removal  
of buildings  
or repair of  
streets, etc.  
1885, c. 378, § 4.  
R. S., c. 53, § 3.

SEC. 19. Whoever desires to cut, disconnect or remove the wires or poles of a telegraph, telephone, electric light or street railroad company in order to move a building, alter, repair or improve a street, bridge or way, or for any other necessary purpose, shall leave a written statement of the time when and the place where such removal is desired, at its office if it has any in that town, and if it has not, he shall send it by mail to its nearest office three days before such time; upon the expiration of which time, if such removal is not made by the company, such person may make the removal, and recover the cost thereof in an action of debt. Whoever disconnects or removes such wires or poles without first giving such notice, shall be fined not exceeding five hundred dollars, or imprisoned not more than three years.

SEC. 20. The mayor and aldermen and selectmen shall each receive, for services performed under this chapter, two dollars a day.

SEC. 21. Either party aggrieved by the assessment of damages, may, within twenty days after the award, file in the office of the clerk of courts for the county, a copy of the award, with reasons of appeal, a copy of which papers, attested by the clerk, shall be served on the adverse party at least fourteen days before the term of the supreme judicial court for that county, to be holden next after the expiration of said fourteen days. 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 causes. 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.

SEC. 22. No enjoyment by any company, person or association, for any length of time, of the privilege of having or maintaining posts, wires or apparatus, in, upon, over or attached to any building or land of other persons shall give a legal right to the continued use of such enjoyment, or raise any presumption of a grant thereof.

SEC. 23. Every company, association or person maintaining or operating a telephone or other electrical line, or any one who in any manner affixes or causes to be affixed to the buildings, or building, of another, any structure, fixture, wire, or other apparatus, or enters upon the property of another for the purpose of affixing the same, in either case without the consent of the owner or lawful agent of the owner of such property shall, on complaint of such owner, or his tenant, be punished by fine not exceeding one hundred dollars.

SEC. 24. Such company, person or association may construct a line upon or along any railroad by the written permit of the person or corporation operating such railroad, but in case such company cannot agree with the parties operating such railroad, as to constructing lines along the same, or as to the manner in which lines may be constructed upon, along or across the same, either party may apply to the railroad commissioners, who, after notice to those interested, shall hear and determine the matter and make their award in relation thereto, which shall be binding upon the parties. The expenses of the hearing shall be paid by the company, person or association seeking to construct lines on the railroad, except that if the railroad commissioners shall find that parties operating the railroad, have unreasonably refused their consent, said parties shall pay the expenses.

Note. Penalty for unlawful combination against gas and electrical companies, c. 124, § 9; for malicious injuries to telegraph, telephone or electric light fixtures, c. 128, § 8.

Provisions for fortnightly payment of wages apply to telegraph and telephone companies, c. 40, § 37.

Limitation of proceedings for damage for land taken by right of eminent domain, c. 83, § 105.

Fees of municipal officers.  
1885, c. 378, § 5.

Party aggrieved by assessment of damages, may appeal.  
1885, c. 378, § 6.

—how determined.

—costs, how paid.

Enjoyment of right to attach wire, etc., to any building, limited.  
1885, c. 378, § 7.  
95 Me., 291.

Penalty for affixing wire to building, etc., without consent of owner.  
1885, c. 378, § 12.

May construct line along any railroad, by written permit.  
1885, c. 378, § 13.

—if parties cannot agree, either may apply to railroad commissioners.

—expenses, how paid.