

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

ment 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.”

Sec. 16. General penalties; jurisdiction.—Any person who shall violate any of the provisions of this chapter for which a specific penalty is not otherwise prescribed shall be punished by a fine of not less than \$10 nor more than \$500, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. The district court shall have concurrent jurisdiction with the superior court of all complaints and prosecutions under sections 1 to 15. (R. S. c. 45, § 17. 1963, c. 402, § 93.)

Effect of amendment.—The 1963 amendment rewrote the last sentence.

Application of amending act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court

when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

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; location and street opening permits.—Every water company organized under the general or special law of this state and authorized to do a public utility business in this state may lay its pipes in and under the roads and streets in any city or town in which it is authorized to supply water or through which it is necessary or convenient to lay the same to conduct water from its source of supply to enable it to render such service, subject to the conditions and under the restrictions provided in this chapter. Such water utility shall procure a written location permit from the municipal officers, or the county commissioners in the case of plantations and unorganized townships. Notwithstanding any of the provisions contained herein, the applicant shall also obtain street opening permits to open public ways when required by a municipality or the state highway commission.

The water utility shall file with the clerk of the municipality or county commissioners, as the case may be, a written application for a location permit stating the type and approximate location of hydrants, pipes and appurtenances, and the minimum depth of pipes. In addition, a public notice shall be given by the applicant by publishing the text of the application once in a newspaper having local circulation. Persons claiming to be adversely affected may object by filing a written objection within 14 days after the date of publication showing cause, if any, they may have why such location permit should not be granted. Such written objection shall be made by personal delivery in hand or by registered or certified mail to the municipal officers of the municipality in which the public way is located, or to the county commissioners in the case of plantations and unorganized townships. Upon receipt of such objections, the municipal officers or the county commissioners, shall fix a time and place for hearing. Seven day's notice of such hearing shall be given by registered or certified mail to the person or persons objecting and to the applicant. At the hearing, the applicant before proceeding shall first prove that notice as hereinbefore provided for has been given, and the adjudication of the municipal officers or county commissioners that such notice has been given shall be final and conclusive. If for any cause the municipal officers or county commissioners find that the original notice or

notice of hearing is defective, they may order new notice, not exceeding 14 days, and adjourn said hearing to a time named in said new order of notice. If no written objection is filed, the municipal officers or county commissioners, after finding that notice has been given as hereinbefore required, shall issue their decision, and the adjudication that such notice has been given and no written objection filed shall be final and conclusive.

The location permit shall specify the type and approximate location of hydrants, pipes and appurtenances and the minimum depth of pipes, and the location permit may prescribe such other reasonable requirements relative to location or construction as may be necessary to protect the public use of the way. The installation and maintenance of a water utility plant by a utility in accordance with such location permit shall constitute compliance by such utility with the requirements of the first clause of section 25 and said water utility may maintain the same in the place so located without liability to others by reason of its location, and no person shall have any right of recovery against a municipality under chapter 96, section 89, by reason of such location, installation or maintenance. After the construction of the water utility facilities, such municipal officers or county commissioners may direct or approve any alteration from the original location permit, in which case the provisions with respect to notice, filing objections and hearing applicable to original location permits shall apply.

No location permit or alteration of an original location permit shall be required for the relocation of hydrants, pipes and appurtenances within the right-of-way of public roads, when such relocation is necessitated by the construction or relocation of highways or public roads, except that at the request of an applicant, the municipal officers or county commissioners shall issue a location permit as additional evidence of the legality of the facilities so relocated.

No new location permit is required for additions to a water utility plant made within the terms of an existing location permit, or for replacements of existing legal structures with similar structures.

No location permit shall be required to install a service line to serve property adjoining a public way when such property is fronted by an existing water pipe under location permit, and such service line facilities will be deemed legal structures.

No location permit shall be required for a water utility plant which existed within the limits of a private way prior to the legal acceptance of said private way as a public way, and such facilities will be deemed legal structures.

No location permit will be required for a water utility plant constructed in accordance with an order of the municipality issued in writing and signed by the municipal officers, or by county commissioners in the case of plantations or unorganized townships, and such facilities when installed in accordance with the order will be deemed legal structures.

Records of such location permits shall be recorded in the records of the municipality or county commissioners. Water utility plants heretofore installed, maintained and now in use by such water utility together with any water utility plant hereafter installed and maintained in accordance with this section shall be deemed legal structures and the party maintaining the same shall be liable on account thereof only for carelessness or negligence.

The municipal officers or county commissioners shall give to the applicant and to any person filing objections, notice of their decision as soon as may be practicable. In case of plantations and unorganized townships, any person aggrieved may appeal from the decision of the county commissioners to the superior court in the manner provided in chapter 89, sections 59 to 62, relating to highways. In case of cities and towns, the decision of the municipal officers shall be filed with the clerk of the city or town within one week from the date thereof. Within 2 weeks from such filing, any person aggrieved 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 2 weeks' notice of the time and place of hearing, which time shall be within 30 days from the time such appeal is filed. Such hearing may be adjourned from time to time, not exceeding 30 days in all, and the commissioners shall file their decision within 30 days from the time the hearing is closed and transmit a copy of the same to the water utility, any other parties to the appeal, and to the clerk of the city or town, who shall forthwith record it.

Said water utility shall also comply with section 38 to 41. (R. S. c. 46, § 13. 1963, c. 284, § 1.)

Effect of amendment.—The 1963 amendment substituted “general or special law” for “general law” near the beginning of the first sentence, deleted “however” following “subject” near the end of such

sentence, and added all of this section following the first sentence.

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.—Telegraph, telephone, gas, pipe line, 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 transporting oil, gas, gasoline, petroleum or any other liquids or gases as a common carrier for hire, or of furnishing gas for light, heat or power, may, in any city or town, place their pipes and appurtenances, wires and cables and all conduits and other structures for conducting and maintaining such pipes, wires and cables under the surface of those streets and highways in which such companies are empowered to obtain locations for their pipes and appurtenances, poles and wires, subject to the written permit therefor of the municipal officers of such city or town, and subject 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 sections 36 to 43. Permits to open streets and highways for the purpose of relaying or repairing such pipes and appurtenances, wires, cables, conduits and other structures may be granted without notice. (R. S. c. 46, § 17. 1951, c. 267, § 1. 1963, c. 284, § 2.)

Effect of amendment.—Prior to the 1963 amendment this section was also applicable to water companies and to hydrants. The amendment also made other minor

changes.

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

Sec. 18. Validity clause.—The location of all pipes, hydrants, wires and cables and all conduits and other structures for the conducting and maintaining of such pipes, hydrants, wires and cables over, under the surface of and in those streets and highways in which such companies are empowered to obtain loca-

tions for their pipes, wires, hydrants and cables which have been located over, under the surface of and in the streets and highways prior to January 1, 1962, and which shall be hereafter so located in accordance with this chapter, are valid and declared legal and the same shall henceforth be legal structures in said streets and highways until the location thereof shall have been changed in any manner required or authorized by law. (1951, c. 267, § 2. 1963, c. 252.)

Effect of amendment.—The 1963 amendment made this section applicable to structures over, as well as under, streets and highways, deleted “heretofore” and inserted “prior to January 1, 1962,” near the middle of this section, and substituted

“this chapter” for “the provisions of the preceding section”.

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. 26. Liability of damages.—Every corporation organized under 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. Said corporation shall have notice of the commencement of any and all civil actions for such damage and such corporation shall have the right to defend any such action at its own expense. (R. S. c. 46, § 20. 1963, c. 414, § 27.)

Effect of amendment.—The 1963 amendment deleted “the provisions of” near the beginning of this section, divided the sec-

tion into two sentences, and substituted “civil actions” for “suits” in the present second sentence.

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 demand 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 substituted “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.