

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

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 2

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

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1959

Chapter 52.

Aqueducts and Water Companies. Right of Eminent Domain.

Aqueducts and Water Companies.

Sec. 5. Powers of proprietors; manner of voting.—The proprietors have one vote for each share and may vote by proxy. For the breach of their by-laws they may impose penalties not exceeding \$30 for each offense; may purchase and hold real estate necessary for their purpose not exceeding \$30,000 in value; and with the written consent of the municipal officers they, or any person, may dig up or open any road for the purpose of laying their pipes or repairing or extending their aqueduct; but not so as to prevent the convenient passage of teams, carriages and motor vehicles. (R. S. c. 48, § 5. 1957, c. 397, § 33.)

Effect of amendment. — The 1957 amendment added the words “and motor vehicles” at the end of the section and amendment added the words “and motor made other minor changes.

Sec. 6. Shares sold for debts of holders; franchise, pipes, fountains, etc., sold for corporate debts; redemption; execution, when revived by motion.—Shares in such corporations are personal estate and may be attached on a writ and sold on execution for the debts of the holders, like shares in other corporations. The franchises, fixtures, pipes, fountains and interests in lands of such corporations are liable to attachment and sale on execution, as personal property, for their corporate debts; but the purchaser thereof at such sale shall not interfere with the possession of the corporation for 2 months after the sale. Within that time, it may redeem such franchise and property by paying the sum for which they were sold with interest; but if not so redeemed, the purchaser shall have the same rights under the franchise and to such property as the corporation had. Any creditor of such corporation, whose execution has been satisfied by an ineffectual sale of such franchise or property, may revive the judgment by motion. (R. S. c. 48, § 6. 1959, c. 317, § 25.)

Effect of amendment.—The 1959 amendment divided the original first sentence into three sentences and substituted the word “motion” for the words “scire facias”, formerly appearing at the end of the 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 further 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.”

Location of Property Taken for Public Uses and Assessment of Damages.

Sec. 17. Appeal.—Any person aggrieved by the decision or judgment of the county commissioners in relation to damages for property taken may appeal to the superior court in the county where the property is situated, within 30 days from the date when the report of the commissioners is made, which court shall determine the same by a committee of reference if the parties so agree or by the verdict of its jury; and shall render judgment and issue execution. If the owner appeals and the damage finally recovered is not more than the award of the county commissioners, the taker shall recover costs from the time of appeal, otherwise the owner shall recover costs. If the taker appeals and the damage finally recovered is not less than the award of the county commissioners, the owner shall recover costs from the time of appeal, otherwise the taker shall

recover costs. The appellant shall, when such 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. An appeal may be taken to the law court as in other actions. (R. S. c. 48, § 17. 1959, c. 317, §§ 26, 27.)

Effect of amendments.—This section was amended twice by P. L. 1959, c. 317. Section 26 of P. L. 1959, c. 317, rewrote the first sentence of this section. Section 27

rewrote the last two sentences.

Effective date of 1959 amendment.—See note to § 6.

Condemnation Proceedings by Water Districts.

Sec. 23. Necessity of taking determined.—The owner of property which is the subject of appropriation for public purposes by any water district may, upon hearing, have the necessity of the particular appropriation determined by the public utilities commission. (R. S. c. 48, § 23. 1955, c. 258, § 1.)

Effect of amendment.—The 1955 amendment added the words “by the public utilities commission” at the end of this section.

Sec. 24. Proceedings.—The owner of such property may, within 30 days after the beginning of condemnation proceedings, file in the office of the clerk of the public utilities commission, a petition to the commission for a decision as to the necessity of the appropriation. A copy of the petition and order of notice thereon, attested by the clerk, shall be served upon the respondent. (R. S. c. 48, § 24. 1955, c. 258, § 2.)

Effect of amendment.—The 1955 amendment rewrote this section, which formerly provided for a petition to the superior court and for the appointment by a justice

of the superior court of three disinterested commissioners to determine the necessity of the appropriation.

Sec. 25. Proceedings before commissioners.—The commissioners shall fix a time for hearing, within the county where the property is situated, and give written notice thereof to the owner and to the district seeking to acquire said property. At the hearing all parties in interest shall be heard either in person or by attorney, and witnesses may be summoned by either party and attendance compelled as before other judicial tribunals; the burden of proof to show the necessity of the particular taking shall rest upon the party seeking to acquire the property. The decision of a majority of the commissioners shall be final as to questions of fact. (R. S. c. 48, § 25. 1955, c. 258, § 3.)

Effect of amendment.—The 1955 amendment inserted the words “within the county where the property is situated”

near the beginning of the section and deleted the former last sentence, which related to costs.

Chapter 52-A.

Peaceful Uses of Atomic Energy.

Sec. 1. Declaration of policy.—The state of Maine endorses the action of the congress of the United States in enacting the atomic energy act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be:

I. To cooperate actively in the program thus instituted; and

II. To the extent that the regulation of special nuclear materials, source materials and by-product materials, of production facilities and utilization facili-