

# MAINE STATE LEGISLATURE

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REVISED STATUTES

OF THE

STATE OF MAINE

1954

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1957 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

**VOLUME 3**

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

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THE MICHE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1957

and himself during a substantial period at the time the aid was given. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787.

**Weight to be given decisions of overseers.**—When overseers acted in good faith and with reasonable judgment touching the necessity of relief of persons found in need, their conclusions will be respected in law. Their conclusions with regard to the nature and extent of relief should in like manner be respected. In neither case will their decision be final

but as they are officers sworn to their duty, it is presumed that they act with integrity until a contrary is shown. *Bethel v. Hanover*, 151 Me. 318, 118 A. (2d) 787; *Machias v. East Machias*, 116 Me. 423, 102 A. 181.

### III. GENERAL ASPECTS OF RECOVERY.

**Interest on award for recovery of expenditures.**—See *Norridgewock v. Hebron*, 152 Me. 280, 128 A. (2d) 215.

### Burial of Honorably Discharged Soldiers and Sailors.

**Sec. 45. State to pay burial expenses of destitute soldiers and sailors and their widows.**—Whenever any person who has served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of his death a resident of this state and in destitute circumstances, the state shall pay the necessary expenses of his burial; or whenever the widow of any person who served in the army, navy or marine corps of the United States and was honorably discharged therefrom shall die, being at the time of her death a resident of this state and being in destitute circumstances and having no kindred living within this state and of sufficient ability legally liable for her support, the state shall pay the necessary expenses of her burial. Such expenses shall not exceed the sum of \$200 in any case and the burial shall be in some cemetery not used exclusively for the burial of the pauper dead. (R. S. c. 82, § 45. 1957, c. 243.)

**Effect of amendment.**—The 1957 amendment made this section into two sentences and increased the sum mentioned in the second sentence from \$100 to \$200.

## Chapter 96.

### Forests. Parks. Ways. Sewers and Drains. Fences.

Section 1-A. State-Owned Lands.

#### State-Owned Lands.

**Sec. 1-A. Profits from state-owned lands.**—In towns where the state owns land as the result of acquisition of such land through the use of federal aid funds under the Pittman-Robertson Federal Aid to Wildlife Act and upon which natural products are sold or leased, 50% of the net profits received by the state from the sale or lease of such natural products shall be paid by the state to the town wherein such land is located. (1955, c. 405, § 43.)

#### Public Parks, Squares, Playgrounds and Shade Trees.

**Sec. 5. Land taken for parks, squares, public libraries and playgrounds.**—Any city or town upon petition in writing signed by at least 30 of its taxpaying citizens, directed to the municipal officers, describing the land to be taken as hereinafter provided, and the names of the owners thereof so far as they are known, may, at a meeting of such town or the city government, direct such municipal officers to take suitable lands for public parks, squares, playgrounds, buildings for municipal purposes or a public library building; and thereupon such officers may take such land for such purposes, but not without consent of the

owner if at the time of filing such petition with such officers or in the office of the clerk of such town or city such land is occupied by a dwelling house wherein the owner or his family reside. When land is taken under the provisions of this section for a public park, the fee of such land may be taken and compensation assessed and paid accordingly. Land in any town so taken for a public park may by authority of a majority vote at a town meeting be transferred and conveyed to the federal government so as to become a part of a national park. Nothing herein shall be held to deprive the former landowners from proceeding to restrain the use of such land for other than public park purposes. (R. S. c. 84, § 5. 1955, c. 216.)

**Effect of amendment.**—Prior to the 1955 cities and towns containing more than amendment this section applied only to 1,000 inhabitants.

### **Town and Private Ways. Public Landings. Bridle Paths.**

**Sec. 49. Maintenance of ways already laid out.**—Notwithstanding the provisions of any section of chapter 45, in case of ways already laid out which cross over or under any railroad track or tracks and not at grade, the allocation of the expense of maintaining so much thereof as is within the limits of such railroad shall be determined, de novo, as provided by section 48, by the public utilities commission upon application to it by any corporation whose track is or tracks are so crossed, or upon application by the municipal officers of any town in which the crossing is located, or upon application by the state highway commission. (R. S. c. 84, § 48. 1945, c. 293, § 17. 1947, c. 22. 1957, c. 356, § 1.)

**Effect of amendment.** — The 1957 ing the word “maintaining” near the mid-amendment deleted the words “rebuilding, reconstructing and” formerly preced- dle of the section and substituted “section 48” for “the preceding section”.

### **Abolishment of Grade Crossings.**

**Sec. 51. Petition to abolish, reconstruct or alter crossings; damages; expenses; temporary ways.**—The state highway commission or the municipal officers of a city or town whenever a public way over which they have jurisdiction crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, or any railroad company may file a petition in writing with the public utilities commission alleging that safety or public convenience either to the traveling public or in the operation of the railroad requires the abolishment of or the reconstruction of or an alteration of such crossing or its approaches; or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered. Whereupon said commission shall appoint a time and place for a hearing thereon after notice of not less than 10 days to the petitioners, the state highway commission, the railroad corporation, the municipality in which such crossing is situated, the owners or occupants of the land adjoining such crossing or adjoining that part of way to be changed in grade, and to the attorney general of the state whose duty it shall be, by himself or through the county attorney of the county wherein the crossing is located to represent the interests of the state at such hearing. After such notice and hearing the commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, shall be made to insure safety or public convenience and by whom such abolishment, reconstruction, alteration, change or removal shall be made. The jurisdiction and authority of said commission as conferred by this section shall exist whether the change or alteration in such crossing is within or without the located limits of a public way. To facilitate such abolishment, reconstruction, alterations, changes or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to pass at the side thereof. For the purposes

aforsaid land may be taken and damages awarded as provided for laying out highways. The commission shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way. Appeal from any decision, order or award of the commission may be had as provided in section 53. The commission shall apportion the expenses pertaining thereto and damages as follows: if the way involved is a state highway, 50% to the state highway commission and 50% to the corporation operating the railroad; if the way involved is a state aid highway, 50% to the state highway commission and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the corporation operating the railroad; if the way involved is a town way, 35% to the state, to be paid out of the general fund, 15% to the town, or in cases under the provisions of the last paragraph of this section, 15% to the county commissioners of the county, in which the way is located and over which the county commissioners have jurisdiction, and 50% to the corporation operating the railroad; provided, however, that the public utilities commission may vary the aforesaid percentages of expenses and damages as it may deem proper after due consideration of the relative benefits to be derived from such abolishment, alteration or reconstruction; and provided, further, that the amount ordered to be paid by the corporation operating the railroad shall not in any event exceed 50% of said expenses and damages. The commission may approve agreements made by the corporation or other parties interested, including the state, acting by and through the state highway commission, in respect to the work, or varying the above percentages provided the amount to be paid by the town by agreement shall not exceed the 15% herein specified unless the town shall otherwise vote. As to any elimination or alteration made under the provisions of this section, the commission may determine what work fairly and properly should be regarded as highway construction.

The commission may make such order relative to the maintenance of crossings at grade or otherwise as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the municipality in which any such crossing is located or by the state acting by or through the state highway commission; or said commission may apportion such expense equitably between such railroad corporation, such municipality and the state acting by or through the state highway commission.

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the commission may order. The commission shall not make any order upon any petition filed under the provisions of this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

The county commissioners shall have the same right of petition under the provisions of this section, with respect to roads in unorganized places laid out by them under the provisions of section 55 of chapter 89, as have municipal officers of a municipality under the foregoing provisions of this section. In case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the public utilities commission of the filing of such petition and given opportunity to appear and be heard thereon. (R. S. c. 84, § 50. 1953, c. 13. 1957, c. 356, § 2.)

**Effect of amendment.** — The 1957 amendment rewrote this section.

**Sec. 52. Public way crossing tracks of more than one railroad.**—Whenever the public utilities commission, upon an application or petition brought under the provisions of section 51, finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public safety or convenience requires the work of abolishment, reconstruction, alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application. After such notice and hearing said commission shall determine what abolishment, reconstruction, alteration, change or removal, if any, of said crossing shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations between such corporations in such manner as said commission shall deem just and proper. (R. S. c. 84, § 51. 1957, c. 356, § 3.)

**Effect of amendment.** — The 1957 amendment inserted the words “safety or” preceding the word “convenience”, inserted the word “reconstruction” in two places, and made other minor changes.

**Sec. 54. Amount paid by state or railroad corporation limited.**—The amount to be paid in any year by the public utilities commission acting for the state under the provisions of sections 51, 52 and 53, except as herein provided, shall not exceed \$25,000 for work in connection with town ways, and said amount shall be appropriated from the general fund for each fiscal year. The said appropriation shall be cumulative and any part of said sum of \$25,000 not expended during the year for which it is appropriated shall be added, at the close of said year, to the sums subsequently appropriated and may be expended in any subsequent year or years. No railroad corporation shall be required to expend, under the provisions of the 3 preceding sections, more than \$110,000 during any period of 3 consecutive calendar years. (R. S. c. 84, § 53. 1957, c. 356, § 4.)

**Effect of amendment.** — The 1957 amendment rewrote this section.

#### **Assessments upon Abutters on City Streets.**

**Sec. 59. Collection of assessments.**—All assessments and charges made under the provisions of sections 56 to 58, inclusive, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected. (R. S. c. 84, § 58. 1957, c. 397, § 46.)

**Effect of amendment.** — The 1957 amendment rewrote this section.

#### **Liability for Repair of Ways and for Injuries.**

**Sec. 87.** Repealed by Public Laws 1955, c. 424, § 6.

**Sec. 89. Persons injured by highway defects; damages; notice.**

Applied in *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Sec. 92. Slippery sidewalk no cause of action.**

This section is not unconstitutional as denying equal protection of the laws, in violation of § 1 of the fourteenth amendment to the constitution of the United States, and the guaranties under § 1 of art. 1 of the constitution of Maine. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Exemption is unrestricted and absolute.**—Whatever may be the character of a ridge of ice or snow in a roadway, as distinguished from a sidewalk, as a defect therein, if the same be created by act of those having charge of the streets and allowed to remain therein, this section re-

lieves a municipality from liability to an action for damages to any person on foot, on account of snow or ice, on any sidewalk or cross-walk. This exemption is unrestricted, is absolute and there is no exception contained therein or thereto. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**And cannot be avoided even if snow or ice constitutes public nuisance.**—The effect of this section cannot be avoided even if the snow or ice on a sidewalk constitutes a public nuisance. *Verreault v. Lewiston*, 150 Me. 67, 104 A. (2d) 538.

**Closing of Ways in Winter.****Sec. 125. Roads closed by county commissioners for part of winter months; notices; effect of order.**

The county commissioners may, without petition, give notice and hold public hearing to close roads for winter in unorganized territory. (R. S. c. 84, § 125. 1957, c. 211.)

**Effect of amendment.**—The 1957 amendment added the sentence set out above as the last paragraph of this section.

As the rest of the section was not changed by the amendment, it is not set out.

**Sewers and Drains.**

**Sec. 130-A. Service charges for sewage disposal.**—A municipality may establish a schedule of service charges from time to time upon improved real estate with buildings on it connected with a municipal sewer or disposal system for the actual use of the system. The charges shall be collected according to section 134 of chapter 96. (1957, c. 405, § 18.)

**Sec. 134. Collection of assessments.**—All assessments and charges made under the provisions of sections 128 to 133, inclusive, shall be certified by the municipal officers and filed with the tax collector for collection. If the person assessed, within 30 days after written notice of the amount of such assessments and charges, fails, neglects or refuses to pay said municipality the expense thereby incurred, a special tax in the amount of such assessment and charges may be assessed by the municipal assessors upon each and every lot or parcel of land so assessed and buildings upon the same, and such assessment shall be included in the next annual warrant to the tax collector for collection, and shall be collected in the same manner as state, county and municipal taxes are collected. (R. S. c. 84, § 139. 1951, c. 343. 1957, c. 279, § 2.)

**Effect of amendment.**—The 1957 amendment repealed former section 134 and enacted the above section in lieu thereof.

**Chapter 97.****Fire Departments and Fire Prevention.****Investigation of Fire Hazards and Causes of Fire.**

**Sec. 22. Insurance commissioner upon complaint may inspect buildings; combustible or other dangerous matter removed; exitways.**

Every hospital, sanatorium, convalescent home, nursing home, rest home or