

# MAINE STATE LEGISLATURE

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## CHAPTER 5

GENERAL PROVISIONS RELATING TO RIVERS  
AND STREAMS

Subch.	Sec.
I. Mills and Dams .....	611
II. Water Storage Reservoirs .....	931

## SUBCHAPTER I

## MILLS AND DAMS

## ARTICLE 1. ERECTION AND FLOWAGE RIGHTS

## Subarticle 1. General Provisions

Sec.	
611.	Owner or mortgagee in possession liable for acts of tenants.
612.	Streams forming state boundary.

## Subarticle 2. Rights and Liabilities

651.	Milldams and canals.
652.	—Diversion of water.
653.	—Injury to existing mill or canal.
654.	Restrictions as to height and duration.
655.	—Damages for flowing or diversion; limitations.
656.	Cranberry culture.
657.	Ice cutting and harvesting.
658.	Timber removal on flowed lands.
659.	—Damages.

## Subarticle 3. Action for Damages

701.	Complaint.
702.	—Service.
703.	Defenses.
704.	Trial; costs.
705.	Appointment of commissioners; appraisal of damages.
706.	Assessment in gross.
707.	Payment in gross; bar.
708.	Commissioners' report for jury.
709.	Acceptance of commissioners' report.
710.	Verdict or report bars future action.
711.	Yearly damages.
712.	—Security for.
713.	Action for unpaid damages; lien.
714.	Execution sale of land and mill.

Sec.

- 715. —Redemption.
- 716. New complaints.
- 717. —Restrictions.
- 718. —Offer of increased compensation.
- 719. —Offer to accept less compensation.
- 720. Tenants may make offers.
- 721. Common law remedy limited.
- 722. Double damages if restrictions violated.
- 723. Agreement of parties binding, if recorded.
- 724. Judgment no bar to new complaint.
- 725. Tender of damages.
- 726. No abatement by death.
- 727. If complaint abates, rights preserved by new complaint.
- 728. Compensation of commissioners; costs.

#### ARTICLE 2. PROTECTION OF WAYS FROM OVERFLOW

- 771. Flowage rights not affected.
- 772. Petition to raise ways and enlarge water vents.
- 773. Proceedings of commissioners.
- 774. Alterations to be made.
- 775. Costs.
- 776. Appeals.

#### ARTICLE 3. INSPECTION OF DAMS AND RESERVOIRS

- 811. Appointment of engineer; duties.
- 812. Correction of unsafe conditions.
- 813. Compensation of engineer.

#### ARTICLE 4. MILLS AND THEIR REPAIR

- 851. Meeting of mill owners; call; object.
- 852. Owners of 50% or more may repair or rebuild.
- 853. Reimbursement.
- 854. Minors and persons with qualified interests.

#### ARTICLE 5. GRIST MILLS

- 891. Scales for weighing grain; order of grinding.
- 892. Tolls.

### ARTICLE 1. ERECTION AND FLOWAGE RIGHTS

#### Subarticle 1. General Provisions

### **§ 611. Owner or mortgagee in possession liable for acts of tenants**

The owner or mortgagee in possession, as well as any tenant, of any mill used for manufacturing lumber is liable for the acts

of such tenant in unlawfully obstructing or diverting the water of any river or stream by the slabs or other mill waste from his mill, but no action shall be maintained therefor without a demand of damages, at least 30 days prior to its commencement. Such unlawful obstruction or diversion by the tenant shall, at the election of the owner or mortgagee and on written notice to the tenant, terminate his tenancy.

R.S.1954, c. 180, § 35.

### § 612. Streams forming state boundary

This chapter applies to mills and dams erected upon streams forming the boundary line of the State although a part of the dam is not in the State. The rights and remedies of all parties concerned shall be ascertained and determined as if the whole of such streams were in the State. This chapter shall not apply to mills and dams erected upon streams whose waters ultimately reach the ocean at a point wholly outside the territorial limits of the United States of America unless said dams are authorized by Act of the Legislature or by a decree of the Public Utilities Commission made after public notice and hearing on petition for such authorization.

R.S.1954, c. 180, § 33.

## Subarticle 2. Rights and Liabilities

### § 651. Milldams and canals

Any man may on his own land erect and maintain a watermill and dams to raise water for working it, upon and across any stream not navigable; or, for the purpose of propelling mills or machinery, may cut a canal and erect walls and embankments upon his own land, not exceeding one mile in length, and thereby divert from its natural channel the water of any stream not navigable, upon the terms and conditions and subject to the regulations hereinafter expressed.

R.S.1954, c. 180, § 1.

### § 652. —Diversion of water

Any person, authorized to erect and maintain a watermill and dams on a stream not navigable and to divert the water of such stream from its natural channel by a canal not exceeding one mile in length for the purpose of propelling mills or ma-

chinery under section 651, may so divert such waters without said limitation to one mile, provided he is the owner of the land on which the canal is to be located or has the consent of the owners thereof, and provided he is the owner of all riparian rights on said stream between the point of diversion and the point at which the waters are returned to the stream, upon the terms and conditions, and subject to the regulations under this chapter. Under this section, "canal" shall include excavations in the ground and closed flumes, penstocks, pipelines and other appropriate means of conveying water from the point of diversion to the point of return to the stream.

R.S.1954, c. 180, § 2.

**§ 653. —Injury to existing mill or canal**

No such dam shall be erected or canal constructed to the injury of any mill or canal lawfully existing on the same stream; nor to the injury of any mill site, on which a mill or milldam has been lawfully erected and used, unless the right to maintain a mill thereon has been lost or defeated.

R.S.1954, c. 180, § 3.

**§ 654. —Restrictions as to height and duration**

The height to which the water may be raised, and the length of time during which it may be kept up in each year, and the quantity of water that may be diverted by such canal, may be restricted and regulated by the verdict of a jury, or report of commissioners, as is provided.

R.S.1954, c. 180, § 4.

**§ 655. —Damages for flowing or diversion; limitations**

Any person whose lands are damaged by being flowed by a milldam, or by the diversion of the water by such canal, may obtain compensation for the injury, by complaint to the Superior Court in the county where any part of the lands are; but no compensation shall be awarded for damages sustained more than 3 years before the institution of the complaint.

R.S.1954, c. 180, § 5.

**§ 656. Cranberry culture**

When dams are erected and maintained on streams not navigable, for the purposes of cranberry culture, and lands are flowed



thereby and injured by such flowage, the owners thereof shall proceed for the recovery of damages for such flowage in the same manner as in case of flowage by dams erected and maintained for mill purposes.

R.S.1954, c. 180, § 36.

### § 657. Ice cutting and harvesting

In order to create ponds for the cutting and harvesting of ice for the market, any persons or corporations may erect and maintain, on their own land, dams on streams not navigable or floatable, but emptying into tidewaters navigable in the winter, and may flow the lands above during November, December, January, February, March and April; but they shall draw off the water to its natural state by the 20th day of May yearly. If any lands are injured by such flowing, the owners thereof have the same remedies as in case of lands flowed by dams erected and maintained for mill purposes; but no right is granted by this section or section 656 to flow any milldam or any mill privilege improved or unimproved. This section shall not be construed as authorizing any persons or corporations to cut ice on any pond created as provided over any area the soil of which such persons or corporations do not own or lease or possess as tenants at will, or by reason of a valid agreement with the owner or lessee or tenant thereof when said owner or lessee is not the State and the pond is not a great pond.

R.S.1954, c. 180, § 37.

### § 658. Timber removal on flowed lands

When any person or corporation shall have decided to erect a dam across a nonnavigable stream under this chapter or under special authority granted by the Legislature, and shall have filed the specifications required by Title 35, section 11, and it appears that standing timber or other property of value upon the land intended to be flowed will constitute a menace to the safety of such person or corporation or to persons or property upon and along the banks of said stream below the intended location of said dam, the Superior Court shall have jurisdiction, upon complaint of such person or corporation, to authorize said plaintiff to remove and sell such timber or other property and to order the payment to the owner thereof of the gross proceeds of such sale and such further sum, if any, as said court shall deem just. Said court shall require the plaintiff to furnish security for such payment and for an additional penalty not less than double the

amount to be received from such sale and shall include in its decree a condition that such additional sum shall be paid to said owner as damages if the dam is not completed and the land flowed within a time to be therein specified. Such time may be extended for good cause shown.

R.S.1954, c. 180, § 38; 1959, c. 317, § 417.

### **§ 659. —Damages**

Damages caused by flowage of lands from which timber or other property shall have been removed under section 658 shall be assessed as though there had been no severance, and the amount paid for such timber or other property with interest to the date of the judgment shall be credited thereon, provided the owner of the land shall have the right to elect whether his damages shall be assessed for flowage as of the time of taking or of flowing.

R.S.1954, c. 180, § 39.

## **Subarticle 3. Action for Damages**

### **§ 701. Complaint**

The complaint shall contain such a description of the land flowed or injured, and such a statement of the damage, that the record of the case shall show the matter heard and determined in the action.

R.S.1954, c. 180, § 6; 1961, c. 317, § 616.

### **§ 702. —Service**

The complaint shall be filed and service made as in other actions.

R.S.1954, c. 180, § 7; 1959, c. 317, § 409.

### **§ 703. Defenses**

The owner or occupant of such mill or canal may answer that the plaintiff has no right, title or estate in the lands alleged to be injured; or that he has a right to maintain such dam, and flow the lands, or divert the water for an agreed price, or without any compensation; or any other matter, which may show that the plaintiff cannot maintain the action; but he shall not answer that the land described is not injured by such dam or canal.

R.S.1954, c. 180, § 8; 1959, c. 317, § 410.

**§ 704. Trial; costs**

When any such answer is filed and an issue in fact or in law is joined, it shall be decided as similar issues are decided at common law. If judgment is for the defendant, he shall recover his costs.

R.S.1954, c. 180, § 9; 1959, c. 317, § 411.

**§ 705. Appointment of commissioners; appraisal of damages**

If the issue is decided in favor of the plaintiff, or if the defendant is defaulted or does not answer or show any legal objection to the proceedings, the court shall appoint 3 or more disinterested commissioners of the same county, who shall go upon and examine the premises and make a true and faithful appraisal, under oath, of the yearly damages, if any, done to the plaintiff by the flowing of his lands or the diversion of the water described in the complaint, and determine how far the same is necessary, and ascertain and report for what portion of the year such lands ought not to be flowed, or water diverted, or what quantity of water shall be diverted. They shall ascertain, determine and report what sum in gross would be a reasonable compensation for all the damages, if any, occasioned by the use of such dam, and for the right of maintaining and using the same forever, estimated according to the height of the dam and flashboards as then existing. If within 10 days after said report is presented to the court, the owners of said dam or mills elect to pay the damages in gross, the court, where the judgment is entered, shall fix the time in which said damages shall be paid, and if not paid within that time, the owners of the dam or mills lose all benefit of their election, and the annual damages shall stand as the judgment of the court, and, except as otherwise provided, all proceedings shall be in conformity with the other provisions of this chapter.

R.S.1954, c. 180, § 10; 1959, c. 317, § 412.

**§ 706. Assessment in gross**

In any case where annual damages have been determined by a judgment of the court, the owners of the dam or mills may apply to the court by a new complaint, to have the damages assessed in gross, and commissioners may be appointed as in other cases to ascertain, determine and report the damages in gross, and like proceedings shall then be had as are provided in sections 705 and 707.

R.S.1954, c. 180, § 12.

**§ 707. Payment in gross; bar**

If the damages in gross are paid within the time fixed, the judgment is a bar to any further complaint so long as the dam and flashboards remain at the same height, but if thereafter either is raised, a new complaint may be made by the owner of the lands flowed for any additional damages caused thereby, and the proceedings in said new complaint shall be as hereinbefore prescribed.

R.S.1954, c. 180, § 11.

**§ 708. Commissioners' report for jury**

If either party requests that a jury may be impaneled to try the cause, the report of the commissioners shall, under the direction of the court, be given in evidence to the jury; but evidence shall not be admitted to contradict it, unless misconduct, partiality or unfaithfulness on the part of some commissioner is shown.

R.S.1954, c. 180, § 13.

**§ 709. Acceptance of commissioners' report**

If neither party requests a trial by jury, the report of the commissioners may be accepted by the court and judgment rendered thereon.

R.S.1954, c. 180, § 14.

**§ 710. Verdict or report bars future action**

The verdict of the jury or the report of the commissioners so accepted is a bar to any action brought for such damages. The owner or occupant shall not flow the lands nor divert the water during any portion of the period when prohibited, nor divert the water beyond the quantity allowed by the commissioners or jury.

R.S.1954, c. 180, § 15.

**§ 711. Yearly damages**

Such verdict or accepted report of the commissioners, and judgment thereon, shall be the measure of the yearly damages, until the owner or occupant of the lands or the owner or occupant of the mill or canal, on a new complaint to the court and by proceedings as in the former case, obtains an increase or decrease of such damages.

R.S.1954, c. 180, § 16.

**§ 712. —Security for**

When any person whose lands are so flowed or from whose lands the water is so diverted files his complaint for ascertaining or increasing his damages, or brings a civil action as provided in section 713, and moves the court to direct the owner or occupant of such mill or canal to give security for the payment of the annual damages, and the court so orders, the owner or occupant refusing or neglecting to give such security shall have no benefit of this chapter; but is liable to be sued for the damages occasioned by such flowing in a civil action.

R.S.1954, c. 180, § 17; 1961, c. 317, § 617.

**§ 713. Action for unpaid damages; lien**

The party entitled to such annual compensation may maintain a civil action therefor against any person who owns or occupies said mill, or canal and mills supplied thereby, when the action is brought; and shall therein recover the whole sum due and unpaid, with costs; and shall have a lien for such compensation, from the time of the institution of the original complaint, on the mill and milldam, or on the canal and the mill supplied thereby, with the appurtenances and the land under and adjoining them and used therewith, for any sum due not more than 3 years before the commencement of the complaint.

R.S.1954, c. 180, § 18; 1961, c. 317, § 618.

**§ 714. Execution sale of land and mill**

The execution on such judgment, if not paid, may at any time within 30 days be levied on the premises subject to the lien. The officer may sell the same at public auction, or so much thereof in common with the residue as is necessary to satisfy the execution, proceeding in giving notice of such sale as in selling an equity of redemption on execution. Such sale is effectual against all persons claiming the premises by any title which accrued within the time covered by the lien.

R.S.1954, c. 180, § 19.

**§ 715. —Redemption**

Any person entitled to the premises may redeem them within one year after the sale by paying to the purchaser, or the person holding under him, the sum paid therefor, with interest at the rate of 12%, deducting therefrom any rents and profits received

by such purchaser, or person holding under him; and may have the same process to compel the purchaser to account as he might have had against a purchaser of an equity of redemption.

R.S.1954, c. 180, § 20.

**§ 716. New complaints**

When either party is dissatisfied with the annual compensation established, a new complaint may be filed, and proceedings had and conducted substantially as in case of an original complaint.

R.S.1954, c. 180, § 21.

**§ 717. —Restrictions**

No new complaint shall be brought until one month after the payment of the preceding year is due and one month after notice to the other party. The other party may within that time make an offer or tender as is provided.

R.S.1954, c. 180, § 22.

**§ 718. —Offer of increased compensation**

The owner of the mill, dam or canal may within said month offer in writing to the owner of the land injured, an increase of compensation for the future. If the owner of the land does not agree to accept it, but brings a new complaint for the purpose of increasing it, he recovers no costs unless he obtains an increase greater than the offer.

R.S.1954, c. 180, § 23.

**§ 719. —Offer to accept less compensation**

The owner of the land injured may within said month offer in writing to the owner of the mill, dam or canal to accept a reduced compensation for the future. If the owner of the mill, dam or canal declines to pay it, and brings a new complaint to obtain a reduction, he shall recover no costs, unless such compensation is reduced to a sum less than was offered.

R.S.1954, c. 180, § 24.

**§ 720. Tenants may make offers**

Such offers may be made by or to the tenants or occupants of the land, and of the mill and dam, or canal, in like manner and

with like effect as if made by or to the owners; but no agreements founded thereon bind the owners, unless made by their consent.

R.S.1954, c. 180, § 25.

### § 721. Common law remedy limited

No action shall be sustained at common law for the recovery of damages occasioned by the overflowing of lands or for the diversion of the water as before mentioned, except in the cases provided in this chapter, to enforce the payment of damages after they have been ascertained by process of complaint.

R.S.1954, c. 180, § 26.

### § 722. Double damages if restrictions violated

If, after judgment, the restrictions imposed by the report of the commissioners or finding of the jury respecting the flowing or diverting of the waters are violated, the party injured thereby may recover of the wrongdoers double damages for his injury in a civil action.

R.S.1954, c. 180, § 27; 1961, c. 317, § 619.

### § 723. Agreement of parties binding, if recorded

When an annual compensation, upon the acceptance by one party of an offer made by the other, is established and signed by the owners of the mill, dam or canal, and of the land, and recorded in the office of the clerk of the court in which the former judgment was rendered, with a reference on the record to the former judgment, and to the book where the agreement is recorded, such agreement is as binding as a verdict and judgment on a new complaint.

R.S.1954, c. 180, § 28.

### § 724. Judgment no bar to new complaint

A judgment against a plaintiff as not entitled to any compensation is no bar to a new complaint for damages, arising after the former verdict, and for compensation for damages subsequently sustained.

R.S.1954, c. 180, § 29; 1959, c. 317, § 413.

### § 725. Tender of damages

In case of an original complaint, the defendant may, with the same advantages to himself, tender and bring money into

court, or if the issue is decided in favor of the plaintiff, or if the defendant is defaulted or does not answer or show any legal objections to the proceedings, the defendant may, in writing entered of record with its date, offer to be defaulted for a specific sum for the yearly damages or a sum in gross as reasonable compensation for all damages, as in an action at common law. If either is accepted, the judgment has the same effect as if rendered on a verdict. If not accepted within such time as the court orders, it shall not be offered in evidence or have any effect upon the rights of the parties, or the judgment to be rendered except the costs. If the plaintiff fails to recover a sum greater than the sum tendered or offered, he recovers such costs only as accrued before the offer, and the defendant recovers costs accrued after that time, and his judgment for costs may be set off against the plaintiff's judgment for damages and costs.

R.S.1954, c. 180, § 30; 1959, c. 317, § 414.

### § 726. No abatement by death

No complaint for so flowing lands or diverting water abates by the death of any party thereto; but it may be prosecuted or defended by the surviving plaintiffs or defendants, or the executors or administrators of the deceased.

R.S.1954, c. 180, § 31; 1959, c. 317, § 415.

### § 727. If complaint abates, rights preserved by new complaint

If such complaint is abated or defeated for want of form, or if, after a verdict for the plaintiff, judgment is reversed, he may bring a new complaint at any time within one year thereafter and thereon recover the damages sustained during the 3 years preceding the institution of the first complaint, or at any time afterwards.

R.S.1954, c. 180, § 32; 1959, c. 317, § 416.

### § 728. Compensation of commissioners; costs

The court shall award a suitable compensation to be paid to the commissioners, and taxed and recovered by the prevailing party. The prevailing party recovers costs, except where it is otherwise expressly provided.

R.S.1954, c. 180, § 34.



## ARTICLE 2. PROTECTION OF WAYS FROM OVERFLOW

**§ 771. Flowage rights not affected**

Nothing in sections 772 to 776 affects any right of flowage or damage therefor.

R.S.1954, c. 180, § 45.

**§ 772. Petition to raise ways and enlarge water vents**

When the owners of mills carried by the water of a stream, or the owners of water power for operating mills, find or apprehend that the necessary head of water for working or reservoir purposes cannot be obtained, or when their existing rights in respect to the same cannot be exercised without overflowing some highway or town way, they may petition the county commissioners for permission to raise such ways and to enlarge the water vent thereof. Such commissioners shall appoint a time and place for a hearing on the petition and give notice thereof to all parties interested as provided in Title 23, section 2052, and such notice may be proved in the manner therein provided.

R.S.1954, c. 180, § 40.

**§ 773. Proceedings of commissioners**

On the day appointed, the county commissioners shall meet, examine the premises described in the petition and hear the parties present, and thereupon they shall determine whether said ways shall be raised and the water vents enlarged and to what extent, and shall prescribe the manner in which it shall be done, and what portion of the expenses thereof and the costs of the hearing shall be borne by the petitioners, and what portion, if any, by the town where the way is located.

R.S.1954, c. 180, § 41.

**§ 774. Alterations to be made**

If the decision is in favor of the plaintiffs, said commissioners shall direct the town, in writing, to make the alterations prescribed and fix the time within which the same shall be done, and if not done within the time fixed, the same may be done by the plaintiffs. Whether by the town or by the plaintiffs, it shall be done in a faithful manner and to the acceptance of the commissioners. Whichever party makes said alterations has a claim up-

on the other for the proportion fixed by the commissioners for said other party to pay, and if it is not paid within 30 days after its approval by said commissioners and a demand therefor, it may be recovered in a civil action.

R.S.1954, c. 180, § 42; 1961, c. 317, § 620.

**§ 775. Costs**

If the decision of the county commissioners is against the plaintiffs, they shall pay the costs of the hearing, taxed as in other cases before county commissioners.

R.S.1954, c. 180, § 43; 1963, c. 414, § 150.

**§ 776. Appeals**

Any party aggrieved may appeal from the decision of said commissioners in the same manner and subject to the same conditions as in case of highways.

R.S.1954, c. 180, § 44.

**ARTICLE 3. INSPECTION OF DAMS AND RESERVOIRS****§ 811. Appointment of engineer; duties**

The Governor with the advice and consent of the Council shall annually appoint a competent and practical engineer, a citizen of the State, who shall hold said office until his successor is appointed and qualified, and who shall, upon petition of 10 resident taxpayers of any town or several towns, the selectmen or assessors of any town or the county commissioners of any county, inspect any dam or reservoir located in such town or county erected for the saving of water for manufacturing or other uses, and after personal examination and hearing the testimony of witnesses summoned for the purpose, shall forthwith report to the Governor his opinion of the safety and sufficiency thereof.

R.S.1954, c. 180, § 46.

**§ 812. Correction of unsafe conditions**

If, after such personal survey and inspection, the engineer reports that such dam or reservoir is unsafe or dangerous to the lives or property of persons residing, carrying on business or employed near or below the same, then the owners, occupants or lessees thereof shall immediately make such alterations, repairs

and additions to said dam or reservoir as such engineer recommends. In default thereof, upon application of said engineer to the Superior Court, the said owners, occupants or lessees shall be enjoined from the use of such dam or reservoir and the water therein contained, until they or either of them comply with the requirements of said engineer, and the water contained in said dam or reservoir may be discharged therefrom, by order of said engineer, in such manner as he directs as in his judgment most conducive to the safety of human life, and consistent with the protection of property.

R.S.1954, c. 180, § 47; 1963, c. 414, § 151.

### § 813. Compensation of engineer

Said engineer shall receive, as full compensation for his services, \$5 a day while actually employed in such service, together with his actual traveling expenses to be audited, allowed and paid from the State Treasury, in cases where such dam or reservoir is by him adjudged safe and sufficient; and by the owners, occupants or lessees of said dam or reservoir, in cases where said dam or reservoir is by him adjudged unsafe and insufficient, to be recovered by said engineer in a civil action.

R.S.1954, c. 180, § 48; 1961, c. 317, § 621.

## ARTICLE 4. MILLS AND THEIR REPAIR

### § 851. Meeting of mill owners; call; object

When an owner of a mill or of the dam necessary for working it thinks it necessary to rebuild or repair it in whole or in part, he may apply in writing to a justice of the peace in the county where it is situated, or if partly in 2 counties, to a justice of the peace in either, to call a meeting of the owners, stating the object, time and place of the meeting. Such justice may issue his warrant for the purpose, directed to such owner, which shall be published in some newspaper printed in such county, if any, 3 weeks successively, the last publication to be not less than 10 nor more than 30 days before the meeting; or a true copy of the warrant may be delivered to each of said owners or left at his last and usual place of abode; and either notice is binding on all the owners.

R.S.1954, c. 180, § 49.

### § 852. Owners of 50% or more may repair or rebuild

At such meeting, whether all the owners attend or not, the owners in interest of at least  $\frac{1}{2}$  of such mill or dam may rebuild

or repair so far as to make them serviceable; and shall be reimbursed out of said mill or its profits what they advanced therefor beyond their proportions, with interest in the meantime.

R.S.1954, c. 180, § 50.

### **§ 853. Reimbursement**

If they are not reimbursed by the profits of the mill or paid by the other owners within 6 months after the work is completed, they may charge 1% a month on the amount advanced, from the end of 6 months until so reimbursed. If a delinquent owner dies or alienates his interest in the premises, the advancing owners have a continuing lien thereon for reimbursement. No special contract made by the owners respecting the building or repair of such mill or dam is hereby affected.

R.S.1954, c. 180, § 51.

### **§ 854. Minors and persons with qualified interests**

Where any part of such mill or dam at the time of meeting and notice is owned by minors, tenants by curtesy, in tail, for life or years, or by mortgagor or mortgagee, the guardians of such minors, such tenant, mortgagor or mortgagee shall be deemed, for the purposes of sections 851 to 892, the proprietors thereof, and shall be notified, vote and contribute accordingly. All advances so made by them, if not paid, may be recovered in a civil action, with interest.

R.S.1954, c. 180, § 52; 1961, c. 317, § 622.

## **ARTICLE 5. GRIST MILLS**

### **§ 891. Scales for weighing grain; order of grinding**

The owner or occupant of every grist mill shall keep scales and weights therein to weigh corn, grain and meal, when required. He shall well and sufficiently grind as required, according to the nature, capacity and condition of his mill, all grain brought to his mill for that purpose and in the order in which it shall be received. For neglecting or refusing to weigh the same when required, or failing to grind the same in the order received, or for taking more than lawful toll, he shall be punished by a fine of not less than \$10 nor more than \$50, for each offense. This section shall not be so construed as to preclude the right of any owner or occupant of any mill to enter into any mutual agreement with any customer or customers as to the order in which the grain of such customers

shall be received and ground, made at the time said customer or customers shall bring his or their grain to the mill for the purpose of being ground.

R.S.1954, c. 180, § 53.

### § 892. Tolls

The toll for grinding, cleansing and bolting all kinds of grain shall not exceed  $\frac{1}{16}$  part thereof.

R.S.1954, c. 180, § 54.

## SUBCHAPTER II

### WATER STORAGE RESERVOIRS

Sec.

931. Creation; right to flow land; damages.

932. Eminent domain; assessment of damages.

933. Authorization required.

### § 931. Creation; right to flow land; damages

Any person, firm or corporation which may be entitled to the rights and benefits provided for in this chapter is authorized and empowered to build, maintain and operate dams and other necessary works and structures, including side dams, embankments, ditches and drains, on lands owned or leased by them for the purpose of creating and maintaining water storage reservoirs or basins; to raise the level of the waters in such storage reservoirs or basins by augmenting the supply of stored water from sources other than the natural drainage area by means of pumping or otherwise; to retain and discharge said stored water; to build, maintain and operate pipes, conduits, penstocks, tunnels and canals for the purpose of augmenting and discharging said stored water for use by such persons, firms or corporations for working their water mill or mills. Such persons, firms or corporations are authorized and empowered to flow such lands as may be necessary to carry out the purposes of this section, and damages caused by the flowing of such lands by means of said dams, other works and structures shall be ascertained and determined in the manner as prescribed in this chapter.

1959, c. 325, § 1.

**§ 932. Eminent domain; assessment of damages**

Any person, firm or corporation authorized and empowered to build, maintain and operate pipes, conduits, penstocks, tunnels and canals under section 931 is further authorized and empowered to exercise the right of eminent domain by taking and holding as for public uses in the manner and subject to the limitations prescribed in Title 35, section 3242, such lands and rights-of-way as such person, firm or corporation may require for such purposes when the water which will be stored, retained and discharged through the use of such pipes, conduits, penstocks, tunnels and canals will be devoted to public uses. All proceedings relating to damages caused by the building, maintaining and operating of said pipes, conduits, penstocks, tunnels and canals shall be ascertained and determined in the same manner as prescribed in said Title 35, sections 3243 to 3252.

1959, c. 325, § 1.

**§ 933. Authorization required**

Any person, firm or corporation authorized and empowered to augment stored water by pumping or otherwise under section 931 and acquire by eminent domain for public uses, lands and rights-of-way for pipes, conduits, penstocks, tunnels and canals under section 932 is authorized and empowered to exercise the rights and benefits under this chapter but only when such person, firm or corporation shall have received the necessary authority by legislative Act.

1959, c. 325, § 1.