

## STATUTES RELATING TO TELEPHONES.

(Continued.)

Louisiana has amended Section 696 of her Revised Statutes, by an Act approved April 10, 1880 (Laws, page 168), and in force from that date, as follows—

SECTION 696. Corporations chartered or formed, under the laws of this or of any other State, or under the laws of the United States, for the purpose of transmitting intelligence by magnetic telegraph or telephone, or other system of transmitting intelligence, the equivalent thereof which may be hereafter invented or discovered, may construct [and] maintain such telegraph, telephone, or other lines necessary to transmit intelligence along all State, parish, or public roads or public works, and along and parallel to any of the railroads in the State, and along and over the waters of this State; *provided*, that the ordinary use of such roads, works, railroads and waters be not thereby obstructed; and along the streets of any city, with the consent of the council or trustees thereof; and such companies shall be entitled to the right of way over all lands belonging to the State, and over the lands, privileges and servitudes of other persons and corporations; and the right to erect poles, piers, abutments and other works necessary for constructing, working, operating and maintaining their lines and works, upon making just compensation therefor. That in the event such company shall fail, on application therefor, to secure such right by consent, contract or agreement upon just and reasonable terms, then such companies or corporations shall have the right to proceed to expropriate the same, as provided in and by the laws of the State relative to expropriation of lands for railroads and other works of public utility; and shall so construct their works as not to impede or obstruct the full use of the highways, navigable waters, or the drainage or natural servitudes of the land over which the right of way may be exercised. But no company operating under the provisions of this act shall have the power to contract with the owners of land or with any other corporation, for the right to erect and maintain any telephone, telegraph or other line for the speedy transmission of intelligence over his or its lands, privileges or servitudes, to the exclusion of the lines of other companies operating under the provisions of this act.

• New York provides against prescription from attachment of wires, by chap. 40, Laws 1886, Rev. Stat. 8th ed., p. 2412—

An act relating to telegraph, telephone, electric light and other wires and cables.

SECTION 1. Whenever any wire or cable, used for any telegraph, telephone, electric light or other electric purposes or for the purpose of communication otherwise than by the aid of electricity, is or shall be attached to, or does, or shall extend upon or over any building or land, no lapse of time whatever shall raise a presumption of any grant of, or justify a prescription of any perpetual right to such attachment or extension.

The taxation of telephone companies is provided for by the Laws of 1886, chap. 659, Rev. Stat., 8th ed., p. 2066—

An act to provide for the assessment of telegraph, telephone and electric light lines.

SECTION 1. The portion of any telegraph, telephone or electric light line in any town or ward in this State, shall be assessed in such town or ward, to the owner or person or corporation, or association in control thereof, in the manner provided by law for the assessment of lands of resident owners, and the same proceedings may be had upon such assessment, and for the collection of any tax levied thereon.

SEC. 2. The word "lines" shall include the interest in the land on which the poles stand, the right or license to erect such poles on land, all poles, arms, insulators, wires and apparatus, instruments, or other thing connected with or used as a part of such line, in such town or ward, and belonging either to the owner of such line, or the person, corporation, or association in control thereof.

SEC. 3. In enforcing the collection of any tax levied upon such assessment, the instruments and batteries connected with such line may be included among the articles subject to levy and sale, and in case there is not sufficient personal property, together with such instruments and batteries, to pay such tax and the percentage thereon of the collector, the collector shall return all sums remaining unpaid, to the county treasurer, and in the city and county of New York, the receiver of taxes, as other unpaid taxes are returned; and the said county treasurer and receiver of taxes shall proceed to sell such part of the line, in the town or ward where the tax was levied, as is necessary to satisfy the unpaid tax and percentage, in the manner now provided by law for the sale of land on execution; and upon such sale, shall execute to the purchaser a conveyance of such part of said line, and the purchaser shall thereupon become the owner thereof.

SEC. 4. It shall be the duty of the clerk of the board of supervisors of the several counties of this State, within five days after making out or issuing of the annual tax warrants by the board of supervisors of their respective counties, to prepare and deliver to the county treasurer, and in the city and county of New York, the receiver of taxes, a statement, showing the title of all telegraph, telephone, and electric light lines in such county as appear in the last assessment-roll of the town or ward in such county, the valuation of the property, real and personal, of such line, in each town or ward, and the amount of tax assessed or levied on such valuation in each town or ward in the county.

SEC. 5. Any telegraph, telephone, or electric light company assessed, may, within thirty days after the receipt of such notice by the county treasurer, or receiver of taxes, pay the amount of tax so assessed, or levied, on their property, with one per cent. fees on the tax, to the county treasurer, or receiver of taxes, who is hereby authorized and directed to receive such amounts; to give a proper receipt therefor; and credit the same to the collector of the town or ward in which the tax was levied. In case the tax on any telegraph, telephone, or electric light line remains unpaid at the expiration of the thirty days specified, it shall be the duty of the county treasurer, and receiver of taxes, to notify the collector of such town or ward of such failure to pay said tax, and said collector shall proceed to collect such tax in the manner herein provided. The tax may be paid directly to the collector, at any time during the life of his warrant, but no collector shall proceed to enforce his warrant, and collect such tax, until the receipt of such notice of non-payment from the county treasurer, or receiver of taxes.

SEC. 6. Nothing herein contained shall be construed to prevent the collection of taxes by any proceeding now provided for by law.

The valuation for school taxes is apportioned amongst the different local political divisions, by chap. 694, Laws of 1867 (Rev. Stat., 8th ed., page 1326), entitled—

An act in relation to the valuation of the property of railroad companies in school districts, for the purposes of taxation.

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment list, to apportion the valuation of the property of each and every railroad, telegraph, telephone, and pipe-line company, as appears on such assessment list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by L. 1884, ch. 414.*)

SEC. 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district, and the amount of the valuation of the property of each railroad, telegraph, telephone, and pipe-line companies, apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes against said companies in and for said districts, shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by L. 1884, ch. 414.*)

SEC. 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town, on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone, or pipe-line company, to make such apportionment, in the same manner and with the like effect as if made by said assessors. (*Thus amended by L. 1885, ch. 340.*)

SEC. 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district, a certified statement of the amounts apportioned to such district, and the name of the company to which the same relates.

SEC. 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone, or pipe-line company, the officer making such alteration shall, at the same time, determine what change in the valuation of the said property in such district would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by L. 1885, ch. 340.*)

Ohio provides for the wages of employes, by an amendatory act, in effect from July 1, 1888, Laws, page 251—

SEC. 1. That every incorporated manufacturing, mining, mercantile, street railroad, telegraph, telephone, express, and water company, and construction companies, or contractors building railroads, shall pay, in lawful money, or by check, draft, or order, payable in lawful money, at sight or on demand, on a bank located at a distance not greater than eight miles from the place where said labor was

performed, twice in each month, each and every employe engaged in its business, the wages earned by such employe to within ten days of the date of said payment; provided, however, that if at any time of payment, any employe shall be absent from his regular place of labor, he shall be entitled to said payment at any time thereafter, during their regular business hours, upon demand; and provided, further, that said employer may retain at each payment, any amount said employe may order withheld from his or her wages for rent, powder, tools, tool sharpening, or oil, due said employer.

SEC. 2. Any corporation mentioned in section one of this act, violating any of the provisions of this act, shall be punished by a fine not exceeding one hundred and not less than fifty dollars; provided, complaint for such violation is made within thirty days from the date thereof. Providing [*sic*], that in pursuance of and under this act, there shall not be more than one conviction of the same corporation during any two weeks.

The energy of employes is restrained by an act, in effect from April 29, 1885, Laws, page 166, entitled—

AN ACT to prevent trespass by the employes of telegraph companies, and other persons, and prescribing the penalty therefor.

SEC. 1. *Be it enacted, etc.*, That any person engaged either for himself, or as an officer, clerk, agent, servant, or other employe of any corporation, firm, or person, doing business wholly or partly in the State of Ohio, as receivers and transmitters of messages or other communications, either by telegraph, telephone, or other similar means, or of any electric light, district telegraph, or other company, person, firm, or corporation, who shall enter into or upon the premises, building or buildings of another, for the purpose of constructing, altering, repairing, or examining the wires, poles, insulators, frames, or other appendages, belonging to such corporation, company, firm, or person, without the written consent of the owner or agent of such premises, building or buildings, or shall attach thereto any wire, pole, insulator, frame, or other appendage whatsoever, without such consent, shall be fined not less than ten nor more than one hundred dollars. (See, also, §3457 of the Rev. Stat. *infra*.)

The general provisions of chapter 4, title II, of the Revised Statutes of Ohio, relating to Magnetic Telegraph Companies (3rd ed. pp. 706-9, and Supp. of 1884, pp. 173, 4), have been extended to telephone companies, as noted below, and are—

SEC. 3454. A magnetic telegraph company, heretofore or hereafter created, may construct telegraph lines, from point to point, along and upon any public road, by the erection of the necessary fixtures, including posts, piers and abutments necessary for the wires; but the same shall not incommode the public in the use of such road.

SEC. 3455. Any such company may construct, own, use, and maintain any line or lines of magnetic telegraph, whether described in its original articles of incorporation or not, and whether such line or lines are wholly within or partly beyond the limits of this State, and may join with any other company or association in conducting, leasing, owning, using, or maintaining such line or lines, upon such

terms as may be agreed upon between the directors or managers of the respective companies; and such companies may own and hold any interest in any such line or lines, or may become lessees of such line or lines, upon such terms as may be agreed upon; but it shall be unlawful for any such company or companies, and the owner or owners of rights of way, to contract for the exclusive use thereof for telegraphic purposes. (*So amended by act of April 15, 1880; Laws, vol. 77, page 264.*)

SEC. 3456. Any such company may enter upon any land, whether held by an individual or a corporation, and whether acquired by purchase or appropriation, or in virtue of any provision in its charter, for the purpose of making preliminary examinations and surveys, with a view to the location and erection of lines of magnetic telegraph, and may appropriate so much thereof as may be deemed necessary for the erection and maintenance of its telegraph poles, piers, abutments, wires, and other necessary fixtures, and for stations, and the right of way over such lands, and adjacent lands, sufficient to enable it to construct and repair its lines.

SEC. 3457. No such company shall, without the consent of the owner thereof, in writing, enter a building or edifice, or use or appropriate any part thereof, or erect any telegraph pole, pier, or abutment in any yard or enclosure within which an edifice is situate, nor, in cases not provided for in section three thousand four hundred and sixty-one, erect any telegraph pole, pier, abutment, wires, or other fixtures, so near to any edifice as to occasion injury thereto, or risk of injury, in case such pole, pier, or abutment be overthrown, nor injure or destroy any fruit or ornamental tree. (See, also, the act of 1885, against trespass, *supra*; it does not contain a repealing clause.)

SEC. 3458. When lands sought to be appropriated for lines of magnetic telegraph, are held by a corporation incorporated under any law of this State, whether held by purchase, or in virtue of any appropriation authorized by its charter, or by any law of this State, the right of the company to appropriate such lands shall be limited to such use of the same as shall not, in any material degree, interfere with the practical uses to which the company is authorized to put such lands, under its charter; and no such company shall erect poles, piers, abutments, wires, or other necessary fixtures, in such close proximity to any other line of magnetic telegraph, authorized by law to be constructed, as to interfere mechanically with the practical working of such telegraph.

SEC. 3459. The right of such company to use lands held by a railroad company, for the permanent structures of such telegraph, shall be limited to the land which lies within five feet of the outer limits of the right of way of the railroad company, where it is practicable to erect the line within those limits; when the company seeks to appropriate lands that lie beyond those limits, its petition must set forth the facts, showing that it is impracticable to erect such line within said limits, and designate, either by a survey and map, or by reference to monuments, or by other means of easy identification, the place or places where the company seeks to establish the line; the probate court shall, in all instances, determine, if it be controverted by the railroad company, whether the erection of the line, at the place, or places, designated, will, in any material degree, interfere with the practical uses to which such railroad company is authorized to put such land, and if the court is satisfied that it will so interfere, it shall reject the petition, or require the structure to be erected at such other place, or places, as the court shall direct; but

nothing in this chapter shall be so construed as to authorize any company to appropriate the use of the track or rolling stock of any railroad company for the purpose of transporting poles, materials, or the employes of such telegraph company, or for any other purpose whatever.

SEC. 3460. Proceedings to appropriate lands to the use of a company against a defendant, whose adjoining or continuous lands lie in more than one county, may be instituted in any county in which any part of such lands lie, and the damages shall be assessed in one proceeding, in respect of all such lands of the defendant, sought to be appropriated, whether lying in the county wherein the court is sitting, or in other counties.

SEC. 3461. When any lands, authorized to be appropriated to the use of a company, are subject to the easement of a street, alley, public way, or other public use, within the limits of any city or village, the mode of use shall be such as shall be agreed upon between the municipal authorities of the city or village, and the company; and if they cannot agree, or the municipal authorities unreasonably delay to enter into any agreement, the probate court of the county, in a proceeding instituted for the purpose, shall direct in what mode such telegraph line shall be constructed along such street, alley or public way, so as not to incommode the public in the use of the same; but nothing in this section shall be so construed as to authorize any municipal corporation to demand or receive any compensation for the use of a street, alley, or public way, beyond what may be necessary to restore the pavement to its former state of usefulness.

SEC. 3462. Every company, incorporated or unincorporated, operating a telegraph line in this State, shall receive dispatches from and for other telegraph lines, and from and for any individual; and on payment of its usual charges for transmitting dispatches, as established by the rules and regulations of the company, shall transmit the same with impartiality and good faith, under a penalty of one hundred dollars for each case of neglect, or refusal, so to do, to be recovered, with cost of suit, by civil action, in the name and for the benefit of the person or company sending, or forwarding, or desiring to send or forward, the dispatch. (*So amended by act of April 15, 1880; Larus, vol. 77, page 264.*)

SEC. 3463. When the person who sends the dispatch, desires to have it forwarded over the lines of other telegraph companies, whose termini are respectively within the limits of the usual delivery of such companies, to the place of final destination, and tenders to the first company the amount of the usual charges for the dispatch, to the place of final delivery, the company shall receive the same, and without delaying the dispatch, shall pay to the succeeding line the necessary charges for the remaining distance; and the succeeding line shall accept the same, and forward the dispatch in the same manner as if the sender had applied to it in person, and paid the usual charges, and, for the omission so to do it, shall be liable to a like penalty, as provided in the last section.

SEC. 3464. When application is made to any such company, to send a dispatch, the officer, agent, clerk, or servant, appointed by the company to receive dispatches at that station, shall inform the applicant, and, if required by him, write upon the dispatch, that the line is not in working order, or that dispatches on hand for transmission will occupy the time, so that the dispatch offered cannot be transmitted within the time required, if the facts are so; and for an omission so to do, or for intentionally giving false information to the applicant, in relation to the time

within which the dispatch offered may be sent, such officer, agent, clerk, or servant, and the company by which he is employed, shall incur the penalty provided in section *thirty-four hundred and sixty-two*.

SEC. 3465. Every telegraph company, incorporated or unincorporated, operating any telegraph line in this State, shall transmit and deliver all dispatches in the order in which they are received for transmission or delivery, under the like penalty of one hundred dollars, as provided in section *thirty-four hundred and sixty-two*; but arrangements may be made with the proprietors or publishers of newspapers, for the transmission, for the purpose of publication, of intelligence of general and public interest, out of its regular order, and dispatches by officers of the State, or the United States, on public business, may have preference over all private business, when the public interest requires such preference; no company shall be required to deliver dispatches at a greater distance from the station at which they are received than its published regulations require; and if an applicant direct a dispatch to be mailed to the place of delivery, and offer to pay the necessary postage thereon, the company shall affix the necessary postage stamp and mail the dispatch in time for the first mail that departs after such dispatch is received at the office of delivery, and for the omission so to do, the company shall be liable to a like penalty as provided in section *thirty-four hundred and sixty-two*.

SEC. 3466. Any person connected with a telegraph company, incorporated or unincorporated, operating a line of telegraph in this State, in any capacity, who wilfully divulges the contents or nature of the contents of a private communication, intrusted to him for transmission or delivery, or who wilfully refuses, or neglects, to transmit or deliver the same, or wilfully delays the transmission or delivery of the same, with a view to injure the sender, or intended receiver thereof, or to benefit himself, or any other person, shall be imprisoned in the county jail, not exceeding three months, or fined, not exceeding five hundred dollars, at the discretion of the court.

SEC. 3467. A person who knowingly transmits by telegraph line, any false communication or intelligence, with intent to injure any person, or to speculate in any article of merchandise, commerce or trade, or with intent that another may do so, or knowingly sends, or delivers, a dispatch that is forged, or not authorized by the person whose name purports to be signed thereto, shall be liable to the same penalty as is provided in section *thirty-four hundred and sixty-two*. [See, also, SECTION 7088, punishing the sender or publisher of a fraudulent telegram.]

SEC. 3468. If, at any time, after the erection of a line of magnetic telegraph upon lands held by a corporation, the corporation have occasion to use the land upon which a telegraph pole, pier, abutment, or other fixture has been erected, for any of the purposes authorized by its charter, the company shall remove such pole, pier, abutment or fixture, to such convenient place as may be designated by the corporation requiring the use of the ground, upon reasonable notice given in writing, and erect the same in such new place, so as not to interfere with the practical uses to which the corporation is authorized to put such land; and if it is impracticable to erect a line of magnetic telegraph upon the lands of such corporation, in consequence of the uses to which the corporation put the lands, the telegraph company may appropriate adjoining lands, by a separate proceeding for that purpose.

SEC. 3469. If, at any time after the erection of such telegraph line, on the

lands of a corporation, the corporation apprehend danger, or risk of danger, to its works or practical operations, in consequence of decay or defect in the mode of structure of any of the works of the telegraph company, it may require the company upon five days' notice, in writing, to repair such decayed or defective works; or, if the danger is imminent, so as not to admit of delay, the corporation may, without notice, repair the defect and recover the reasonable expense thereof, with costs of suit, before any court of competent jurisdiction.

SEC. 3470. Where two or more telegraph companies, whose several lines are not parallel, or in competition with each other, and when so united, will form a continuous line, for receiving and transmitting dispatches, desire to consolidate into a single corporation, they may do so in the manner and subject to the rules provided in chapter two, for the consolidation of railroad companies. [*So amended by act February 4, 1881, Laws, vol. 78, p. 26.*]

SEC. 3471. The provisions of this chapter shall apply also to any company organized to construct any line or lines of telephone; and every such company shall have the same powers, and be subject to the same restrictions, as are herein prescribed for magnetic telegraph companies.

“An act to facilitate the construction of the electric telegraph” (in force February 8, 1847, Laws, vol. 45, page 34), was not embraced in the Revision of 1879, and is omitted here on account of the special wording of Section 3471, *supra*. It appears as Title xlix, §§ 1-6, pp. 768-9, vol. 3, Supp. Rev. Stat. Ohio, ed. of 1884, and authorized construction of telegraph lines, so as not to incommode the public; authorized county commissioners to appoint appraisers for damages from construction of lines; punished those who injured the lines, and reserved the right to alter, modify or repeal this act, as well as to tax stock of telegraph companies.

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(To be continued.)