

Article 23 – Miscellaneous Companies

318.

[It] A CORPORATION DESCRIBED IN § 317 OF THIS ARTICLE may construct a line or lines of telegraph through this State, or from or to any point or points within this State, or upon the boundaries thereof, and along and upon any postal roads and postal routes, roads, streets and highways, or across any of the bridges or waters within the limits of this State, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires of such lines, without their being deemed a public nuisance, or subject to be abated by any private party; provided, the same shall not be so constructed as to incommode injuriously the public use of said postal roads or postal routes, roads, highways and bridges or injuriously interrupt the navigation of said waters, or interfere with the convenience of any landowner more than is unavoidable; and this section shall not be so construed as to authorize the construction of any bridge across any of the navigable waters of this State; but the said corporation shall be responsible for any damage which any person or corporation may sustain by the erection, continuance and use of such fixtures; and in any action brought for the recovery thereof by the owner or possessor of any lands, the damages to be awarded may, at the election of such corporation, include the damages for allowing the said fixtures permanently to continue; on payment of which damages, the right of the corporation to continue such fixtures shall be confirmed, as if granted by the parties to the suit; provided, that no person or body politic shall be entitled to sue for or recover damages as aforesaid, until the said corporation, after due notice, shall have failed or refused to remove, in reasonable time, the fixtures complained of; or the president and directors of the said company may apply to a judge of the circuit court for the county where such lands are, and such judge shall [thereupon issue his warrant, directed to the sheriff of said county or city, commanding him to summon twelve disinterested persons, qualified to serve as jurors,] DIRECT THAT JURORS BE SUMMONED to meet at the proper place, as directed by the judge, [; and the sheriff shall qualify the said persons, by oath or affirmation, faithfully] to perform the duties required of them by § 319 of this article.

SECTION 2. AND BE IT FURTHER ENACTED, That passage of this Act is contingent on the passage of Chapter ____ (S.B. ____/H.B. ____)(2lr1482/2lr1481) of the Acts of the General Assembly of 1992, a Constitutional Amendment, and its ratification by the voters of the State.

SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of Section 2 above, this Act shall take effect October 1, 1992.

Approved May 5, 1992.