

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1846.



AUGUSTA:

WM. T. JOHNSON, PRINTER TO THE STATE.

1847.

TWENTY-SIXTH LEGISLATURE.

No. 26.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FORTY-SIX.

AN ACT granting appeals from the decisions of county
commissioners.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. Any person or corporation aggrieved
2 by any decision of any court of county commissioners,
3 on an application to lay out, alter or discontinue any
4 highways, may appeal to the district court held in the
5 county where the location, alteration or discontinuance
6 is prayed for, under the limitations and restrictions
7 contained in this act.

SEC. 2. The parties, petitioners or respondents may
2 enter their appearance before the county commission-
3 ers on any such application, either jointly or severally ;

4 and any party so entering an appearance may take
5 an appeal from the decision of said county commis-
6 sioners within thirty days after said decision shall be
7 entered on record, and not afterwards; provided,
8 however, that if the person or corporation so appeal-
9 ing shall neglect to prosecute the appeal, any other
10 person or corporation, a party of record, may prose-
11 cute the same; and thereupon all proceedings shall
12 be stayed in said county commissioners' court until a
13 decision shall be had in the district court, from which
14 decision there shall be no appeal; and all persons or
15 corporations claiming such appeal, shall be held joint-
16 ly and severally liable for all costs that may be ad-
17 judged against them.

SEC. 3. In all cases of appeal from the judgment
2 of the county commissioners in any county, pending
3 in the district court in said county, it shall be lawful
4 for the court to appoint a special committee of three
5 disinterested persons, whose duty it shall be, after
6 giving such notice as the court shall order, to proceed
7 to view the route named in the original petition; and
8 after a hearing of the parties and their witnesses, to
9 report at the next term of said district court in said
10 county, whether in their opinion, the judgment of the
11 county commissioners should be, in whole or in part,

12 affirmed or reversed; and such committee shall be
13 sworn to the faithful performance of their duty.

SEC. 4. Upon the acceptance of such report, judg-
2 ment shall be entered accordingly, by the district
3 court, including judgment for costs as hereinafter
4 provided; and the same shall be forthwith certified to
5 the court of county commissioners. If such judg-
6 ment shall be wholly against the location, alteration
7 or discontinuance in question, no farther proceedings
8 shall be had thereon by the county commissioners;
9 but if otherwise, then the county commissioners shall
10 proceed to lay out, alter or discontinue such highway,
11 in whole or in part, as the judgment may be; and in
12 the manner and according to the regulations and lim-
13 itations provided by law, where no appeal is taken.

SEC. 5. The special committee above provided,
2 shall be paid by the county, for their time and travel,
3 such compensation as is now or may be provided by
4 law, for the county commissioners when acting upon
5 original petitions for the same purpose, subject, how-
6 ever, to the decision of the district court as to the
7 number of days attendance to be allowed said com-
8 mittee; and in case the judgment of the county com-
9 missioners shall be affirmed in whole or in part, the
10 party prosecuting the appeal, shall if so adjudged by

11 the district court, pay all costs that have arisen since
12 the appeal, and the county commissioners shall issue
13 their warrant therefor, in the same manner as is now
14 provided for the collection of costs awarded against
15 petitioners for a road. The district court shall have
16 discretionary power to allow costs to be paid out of
17 the county treasury to the prevailing party in any
18 such appeal.

SEC. 6. In case no person appears to prosecute the
2 appeal provided for in this act, the case may be dis-
3 missed by the court; but it may be again restored,
4 upon application to the court within a reasonable time,
5 if in the opinion of said court justice requires it.

SEC. 7. If the judgment, upon appeal, shall be
2 wholly against the laying out, altering or discontinu-
3 ing of the road prayed for, no petition praying sub-
4 stantially for the same action, shall be entertained by
5 the county commissioners, within two years from the
6 rendition of such judgment on appeal.

SEC. 8. This act shall take effect from and after its
2 approval.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, July 13, 1846.

Ordered, That 350 copies of the foregoing bill, reported by Mr. Getchell of North Anson, from the Committee on the Judiciary, be printed for the use of the Legislature.

SAMUEL BELCHER, *Clerk*.