

# MAINE STATE LEGISLATURE

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# Sixty-Eighth Legislature.

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HOUSE.

No. 318.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND NINETY-SEVEN

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AN ACT amendatory of and additional to chapter two hundred and sixty-eight of the Public Laws of eighteen hundred and ninety-three, entitled "An Act to regulate the Organization and Control of Street Railroads."

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

Section 1. Section one of chapter two hundred and sixty-  
2 eight of the Public Laws of eighteen hundred and ninety-  
3 three is hereby amended by inserting after the word "elec-  
4 tricity" in the fourth line of said section the words 'com-  
5 pressed air,' so that said section as amended shall read as  
6 follows:

'Section 1. Any number of persons not less than five, a  
8 majority of whom shall be citizens of this State, may form  
9 a company for the purpose of constructing, maintaining

10 and operating by electricity, compressed air, or animal  
11 power, a street railroad for public use, for street traffic for  
12 the conveyance of persons and property, and for that pur-  
13 pose may make and sign articles of association in which  
14 shall be stated the name of the company, the gauge of the  
15 road, the places, cities and towns from which, in which and  
16 to which the road is to be constructed, maintained and  
17 operated, the length of such road, as nearly as may be, the  
18 amount of capital stock which shall not be less than four  
19 thousand dollars for every mile of road proposed to be con-  
20 structed, the number of shares of which said stock shall  
21 consist, and the names and places of residence of at least  
22 three persons, a majority of whom shall be citizens of this  
23 State who shall act as directors of the proposed company,  
24 and manage its affairs until others are chosen in their places.  
25 Each subscriber shall sign his name, residence and number  
26 of shares which he agreed to take in said company.'

Sect. 2. Section six of said chapter, as amended by chap-  
2 ter eighty-four of the Public Laws of eighteen hundred and  
3 ninety-five, is hereby amended by striking out from the  
4 forty-eighth to the fifty-eighth lines thereof, inclusive, the  
5 following words, namely: "If the board of railroad commis-  
6 sioners, after hearing the petitions, shall, subject to the  
7 provisions of section nine, approve the proposed location,  
8 and find that public convenience requires the construction  
9 of such road, it shall endorse its approval on the petition,  
10 and the corporation may then proceed with the construc-  
11 tion of such road, provided, that they first file with the clerk  
12 of the court of county commissioners of the county in which  
13 said street railway is to be located, a copy of the location  
14 and plan aforesaid, and another copy of the same with the

15 board of railroad commissioners.” And inserting in place  
16 thereof the following: ‘At such hearing any party claim-  
17 ing to be interested may appear in person or by counsel and  
18 such appearance shall be entered of record. The board  
19 of railroad commissioners, after hearing the petition, shall,  
20 if they approve such location, subject to the provisions of  
21 section nine, then determine whether public convenience  
22 requires the construction of such road, and make a certifi-  
23 cate of such determination in writing, which certificate shall  
24 be filed with their clerk within thirty days after such hear-  
25 ing. Within five days after the filing of such certificate  
26 with him, said clerk shall notify all who have become parties  
27 of record as aforesaid, or their counsel, of such determina-  
28 tion, by sending to each such party or their counsel by mail  
29 a certified copy of such certificates so filed with him. Any  
30 party of record who is dissatisfied with such determination  
31 may appeal therefrom, at any time within fifteen days from  
32 the date of filing such certificates, to the supreme judicial  
33 court next to be holden in any county where any part of  
34 said railway is located, more than thirty days from the date  
35 of filing said certificate with said clerk as aforesaid, exclud-  
36 ing the day of the commencement of the session of said  
37 court. An appeal shall lie by any interested party from the  
38 decision of the board of railroad commissioners, in any case  
39 heard prior to the passage of this act, provided such appeal  
40 is taken at any time within three months from the time  
41 when this act goes into effect. The appellant shall serve  
42 written notice of such appeal upon said board of railroad  
43 commissioners, fourteen days, at least, before the session of  
44 said court, and shall at the first term file a complaint, set-  
45 ting forth substantially the facts of the case. Upon the

46 entry of said appeal, the court shall appoint a committee  
47 consisting of three justices of the supreme judicial court,  
48 of whom the presiding justice, may, by consent of parties,  
49 be one, provided, however, that one such justice may be  
50 mutually agreed upon and appointed as such committee,  
51 by the parties to the appeal. Said committee shall appoint  
52 a day for a hearing upon said appeal, and the appellants  
53 shall give such notice thereof as said committee deem  
54 reasonable and proper, in order that all persons interested  
55 may have opportunity to appear and object thereto. Said  
56 committee, after such hearing, shall determine whether pub-  
57 lic convenience requires the construction of such road.  
58 The decision of the committee, or a majority thereof if three  
59 are appointed, when filed in court, shall be final and con-  
60 clusive upon all parties without further action of the court,  
61 and such decision shall forthwith be certified to the board  
62 of railroad commissioners. The compensation of the com-  
63 mittee shall be paid by the parties, and costs taxed as the  
64 court may order. If the board of railroad commissioners  
65 find that public convenience requires the construction of  
66 said road and no appeal therefrom shall have been taken,  
67 or if a committee appointed by the supreme judicial court,  
68 as aforesaid, shall, on appeal, certify to said railroad com-  
69 missioners that the public convenience requires the con-  
70 struction of said road, then, in either of said cases, the cor-  
71 poration may then proceed with the construction of said  
72 road, provided that they first file with the clerk of county  
73 commissioners of the county in which said street railroad  
74 is to be located, a copy of the location and plan aforesaid,  
75 and another copy of the same with the board of railroad  
76 commissioners.'

Said section is further amended by adding after the word  
78 “obtained” in the sixty-fourth line thereof, the following:  
79 ‘but no such permission shall be necessary where such rail-  
80 ways desire to cross public bridges already erected, but the  
81 authority to determine whether such crossings shall be per-  
82 mitted shall rest with the municipal officers of the cities or  
83 towns liable for the repair of such bridges, respectively,  
84 who may impose such conditions and terms upon railways  
85 desiring to cross the same as to them may seem expedient.  
86 In case any county is liable for the repair of a bridge, the  
87 county commissioners of such county shall have authority  
88 in the premises.’

Said section is further amended by striking out from the  
90 sixty-fifth line of said section, the words, “paved or macad-  
91 amized.” So that said section as amended shall read as  
92 follows:

‘Section 6. Every corporation organized under the fore-  
94 going provisions before commencing the construction of its  
95 road shall present to the railroad commissioners a petition  
96 for approval of location, defining its courses, distances and  
97 boundaries, accompanied with a map of the proposed route  
98 on an appropriate scale with the written approval of the  
99 proposed route and location as to streets, roads or ways of  
100 the municipal officers of the cities and towns in which said  
101 railway is to be constructed in whole or in part, and with  
102 a report and estimate prepared by a skillful engineer. If  
103 the municipal officers upon a written application therefor,  
104 neglect for thirty days to approve a route and location  
105 as to streets, roads or ways, or if they refuse to approve  
106 such a route and location, or if such route and location  
107 approved by them is not accepted by the corporation, in

108 either case, said corporation may appeal to the next term  
109 of the supreme judicial court to be held in any county  
110 where any part of said railway is located, more than thirty  
111 days from the expiration of said thirty days, or from the  
112 date of such refusal, or from the approval of a location  
113 that is not accepted by the corporation, or otherwise, as  
114 the case may be, excluding the day of the commencement  
115 of the session of said court. If said railway is located in  
116 two or more counties, the supreme judicial court in either  
117 county shall have jurisdiction of any such appellate pro-  
118 ceedings. The appellants shall serve written notice of  
119 such appeal upon said municipal officers fourteen days, at  
120 least, before the session of said court, and shall at the first  
121 term file a complaint setting forth substantially the facts  
122 of the case. If the appeal is then entered, and not after-  
123 wards, the court shall appoint a committee of three dis-  
124 interested persons who shall be sworn and if one of them  
125 dies, declines or becomes interested, the court may appoint  
126 some suitable person in his place, and they shall give such  
127 notice as the court has ordered, view the proposed route  
128 or routes, and location or locations, and make their report  
129 at the next term of the court after their appointment,  
130 defining therein the route and location as to streets or ways  
131 as determined by them, which after acceptance and entry  
132 of judgment thereon, shall forthwith be certified to the  
133 railroad commissioners and received by them in lieu of  
134 the approval of the municipal officers. Costs may be  
135 taxed and allowed as the court may order. A failure to  
136 appeal shall not bar the corporation from making a new  
137 application to the municipal officers. Said commissioners  
138 shall, upon presentation of such petition, appoint a day for

139 a hearing thereon, and the petitioners shall give such  
140 notice thereof as said commissioners deem reasonable and  
141 proper, in order that all persons interested may have an  
142 opportunity to appear and object thereto. At such hear-  
143 ing any party claiming to be interested may appear in  
144 person or by counsel and such appearance shall be entered  
145 of record. The board of railroad commissioners, after  
146 hearing the petition, shall, if they approve such location,  
147 subject to the provisions of section nine, then determine  
148 whether public convenience requires the construction of  
149 of such road, and make a certificate of such determination  
150 in writing, which certificate shall be filed with their clerk  
151 within thirty days after such hearing. Within five days  
152 after the filing of such certificate with him, said clerk shall  
153 notify all who have become parties of record as aforesaid  
154 or their counsel, of such determination, by sending to each  
155 such party or their counsel, by mail, a certified copy of  
156 such certificate so filed with him. Any party of record  
157 who is dissatisfied with such determination may appeal  
158 therefrom, at any time within fifteen days from the date of  
159 filing such certificate, to the supreme judicial court next  
160 to be holden in any county where any part of said railway  
161 is located, more than thirty days from the date of filing  
162 said certificate with said clerk as aforesaid, excluding the  
163 day of the commencement of the session of said court. An  
164 appeal shall lie by any interested party from the decision  
165 of the board of railroad commissioners, in any case heard  
166 prior to the passage of this act, provided such appeal is  
167 taken at any time within three months from the time when  
168 this act goes into effect. The appellant shall serve written  
169 notice of such appeal upon said board of railroad commis-



170 sioners, fourteen days, at least, before the session of said  
171 court, and shall at the first term file a complaint, setting  
172 forth substantially the facts of the case. Upon the entry  
173 of said appeal, the court shall appoint a committee con-  
174 sisting of three justices of the supreme judicial court, of  
175 whom the presiding justice may, by consent of parties,  
176 be one, provided, however, that one such justice may be  
177 mutually agreed upon and appointed as such committee,  
178 by the parties to the appeal. Said committee shall appoint  
179 a day for a hearing upon said appeal, and the appellants  
180 shall give such notice thereof as said committee deem  
181 reasonable and proper, in order that all persons interested  
182 may have opportunity to appear and object thereto. Said  
183 committee, after such hearing, shall determine whether  
184 public convenience requires the construction of such road.  
185 The decision of the committee, or a majority thereof if  
186 three are appointed, when filed in court, shall be final and  
187 conclusive upon all parties without further action of the  
188 court, and such decision shall forthwith be certified to the  
189 board of railroad commissioners. The compensation of  
190 the committee shall be paid by the parties, and costs taxed  
191 as the court may order. If the board of railroad com-  
192 missioners find that public convenience requires the con-  
193 struction of said road and no appeal therefrom shall have  
194 been taken, or if a committee appointed by the supreme  
195 judicial court, as aforesaid, shall on appeal certify to said  
196 railroad commissioners that the public convenience requires  
197 the construction of said road, then, in either of said cases,  
198 the corporation may then proceed with the construction  
199 of said road, provided that they first file with the clerk of  
200 county commissioners of the county in which said street

201 railroad is to be located, a copy of the location and plan  
202 aforesaid, and another copy of the same with the board  
203 of railroad commissioners. Any extension of, addition  
204 to or variation from the location by any street railway  
205 organized under the provisions of this act may be made  
206 in accordance with, and subject to the limitations of the  
207 foregoing provisions, provided, that no railway shall be  
208 located across tide waters, where vessels can navigate,  
209 without special permission of the legislature first obtained.  
210 But no such permission shall be necessary where such rail-  
211 ways desire to cross public bridges already erected, but  
212 the authority to determine whether such crossing shall  
213 be permitted shall rest with the municipal officers of the  
214 cities or towns liable for the repair of such bridges, respec-  
215 tively, who may impose such conditions and terms upon  
216 railways desiring to cross the same as to them may seem  
217 expedient. In case any county is liable for the repair of  
218 a bridge, the county commissioners of such county shall  
219 have authority in the premises. But no road shall be  
220 located under this act, over any street in any city in this  
221 State, without the permission of the mayor and aldermen  
222 thereof, unless it shall be otherwise determined by a com-  
223 mittee of judges of the supreme judicial court, on appeal,  
224 as hereinbefore provided for appeals from the decisions  
225 of the board of railroad commissioners, and such appeal  
226 may be taken by any party interested, including an exist-  
227 ing street railroad claiming to be injuriously affected by  
228 such location, to the supreme judicial court, substantially  
229 in the manner and with the effect as hereinbefore provided.'

Sect. 3. Section ten of said chapter is hereby amended  
2 by inserting after the words "one hundred and twenty-six"

3 in the eighth line of said section the words 'one hundred  
4 and thirty-five, one hundred and thirty-six as amended, one  
5 hundred and thirty-seven, one hundred and thirty-eight,  
6 one hundred and thirty-nine, one hundred and forty' so that  
7 said section as amended, shall read as follows:

'Section 10. So far as applicable the provisions of section  
9 seventeen, nineteen, twenty, twenty-two, twenty-three,  
10 twenty-four, twenty-five, twenty-six, twenty-seven, thirty-  
11 six, thirty-seven, thirty-eight, thirty-nine, fifty-four, fifty-  
12 five, fifty-six, fifty-seven, sixty-six, sixty-seven, sixty-eight,  
13 one hundred and fourteen, one hundred and fifteen, one  
14 hundred and sixteen, one hundred and seventeen, one hun-  
15 dred eighteen, one hundred and twenty-six, one hundred  
16 and thirty-five, one hundred and thirty-six as amended, one  
17 hundred and thirty-seven, one hundred and thirty-eight,  
18 one hundred and thirty-nine, one hundred and forty of  
19 chapter fifty-one of the revised statutes, shall apply to street  
20 railways.'

Sect. 4. Any street railroad corporation, organized under  
2 the general laws of said State, or under a special charter,  
3 may erect and maintain hotels, cottages, places of amuse-  
4 ment and pleasure grounds along its route, and for that pur-  
5 pose may purchase and hold real estate and personal prop-  
6 erty necessary or convenient therefor, provided that the  
7 right of taking lands or other property shall not extend to  
8 property to be used for such purposes, and such street rail-  
9 road corporations may purchase and hold shares of the  
10 capital stock of any other corporation engaged in the busi-  
11 ness of owning, leasing, maintaining or operating such  
12 hotels, cottages, places of amusement and pleasure grounds.

Sect.5. Any street railroad corporation organized under  
2 a special legislative act, may be authorized to extend, con-  
3 struct, maintain and operate its road to, into and through  
4 adjoining cities and towns, other than and in addition to  
5 those named in its charter, by compliance with and subject  
6 to the provisions of section six of said chapter two hundred  
7 and sixty-eight of the Public Laws of eighteen hundred  
8 and ninety-three, as amended by this act. Such corpora-  
9 tions shall in addition to their chartered rights have all the  
10 rights and powers conferred from time to time by general  
11 laws upon street railroad corporations, subject to the con-  
12 ditions, limitations and restrictions thereby imposed; but  
13 no corporation shall have the right to run over the tracks  
14 of another street railroad, without legislative consent, here-  
15 tofore or hereafter granted, and the right of any connect-  
16 ing street railroad company specially conferred upon it by  
17 its charter shall be preserved unimpaired.

Sect. 6. Any street railroad corporation may issue bonds  
2 in accordance with the provisions of the general law for any  
3 lawful purpose, and secure the same by mortgage of its  
4 road, franchises and property.

Sect. 7. Section two of chapter eighty-four of the Public  
2 Laws of the year eighteen hundred and ninety-five is hereby  
3 repealed.

STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES,  
March 17, 1897.

Reported by Mr. MACOMBER of Augusta, from Committee on Rail-  
roads, Telegraphs and Expresses, and ordered printed under joint rules.

W. S. COTTON, *Clerk*.