

MAINE STATE LEGISLATURE

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Sixty-Ninth Legislature.

HOUSE.

No. 275.

STATE OF MAINE.

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

AN ACT to amend sections three and six of chapter two hundred and sixty-eight of the Public Laws of eighteen hundred and ninety-three, as amended by chapter eighty-four of the Public Laws of eighteen hundred and ninety-five and chapter two hundred and forty-nine of the Public Laws of eighteen hundred and ninety-seven, relating to the organization and control of street railroads.

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

Section 1. The first eight lines of section three of chapter 268 of the Public Laws of 1893, is hereby amended by striking out all of the first sentence of said section, and inserting the following: 'Said directors shall present to the board of railroad commissioners a petition for approval of said articles of association, accompanied with a map of the pro-

7 posed route on an appropriate scale. The board of railroad
8 commissioners shall, on presentation of such petition ap-
9 point a day for a hearing thereon, and the petitioners
10 shall give such notice thereof as said board deems reasonable
11 and proper, in order that all persons interested may have an
12 opportunity to appear and be heard thereon. At such hear-
13 ing any party claiming to be interested may appear in person
14 or by counsel and such appearance shall be entered of
15 record. If the board of railroad commissioners, after notice
16 and hearing the parties, finds that all the provisions of one
17 and two have been complied with, and that public conven-
18 ience requires the construction of such railroad, said board
19 shall endorse upon said articles a certificate of such facts and
20 the approval of the board in writing, which certificate shall
21 be filed with their clerk within thirty days after such hear-
22 ing. Within five days after the filing of such certificate with
23 him, said clerk shall notify all who have become parties of
24 record as aforesaid or their counsel of such determination,
25 by sending to each such party or their counsel, by mail, a
26 certified copy of such certificate so filed with him. Any
27 party of record who is dissatisfied with such determination
28 may appeal therefrom, at any time within fifteen days from
29 the date of filing such certificate, to the supreme judicial
30 court next to be holden in any county where any part of said
31 railway is located, more than thirty days from the date of
32 filing said certificate with said clerk as aforesaid, excluding
33 the day of the commencement of the session of said court.
34 An appeal shall lie by any interested party from the decision
35 of the board of railroad commissioners, in any case heard
36 prior to the passage of this act, provided such appeal is taken
37 at any time within three months from the time when this act
38 goes into effect. The appellant shall serve written notice
39 of such appeal upon said board of railroad commissioners,

40 fourteen days, at least, before the session of said court, and
41 shall at the first term file a complaint, setting forth substan-
42 tially the facts of the case. Upon the entry of said appeal,
43 the court shall appoint a committee consisting of three
44 justices of the supreme judicial court, of whom the presiding
45 justice may, by consent of parties, be one, provided, however,
46 that one such justice may be mutually agreed upon and
47 appointed as such committee, by the parties to the appeal.
48 Said committee shall appoint a day for a hearing upon said
49 appeal, and the appellants shall give such notice thereof as
50 said committee deem reasonable and proper, in order that all
51 persons interested may have opportunity to appear and ob-
52 ject thereto. Said committee, after such hearing, shall deter-
53 mine whether public convenience requires the construction of
54 such road. The decision of the committee, or a majority
55 thereof if three are appointed, when filed in court, shall be
56 final and conclusive upon all parties without further action
57 of the court, and such decision shall forthwith be certified to
58 the board of railroad commissioners. The compensation of
59 the committee shall be paid by the parties, and costs taxed
60 as the court may order,' so that said section as amended shall
61 read as follows:

'Sect. 3. Said directors shall present to the board of rail-
63 road commissioners a petition for approval of said articles
64 of association, accompanied with a map of the proposed
65 route on an appropriate scale. The board of railroad com-
66 missioners shall, on presentation of such petition appoint a
67 day for a hearing thereon, and the petitioners shall give
68 notice thereof as said board deems reasonable and proper, in
69 order that all persons interested may have an opportunity to
70 appear and be heard thereon. At such hearing any party
71 claiming to be interested may appear in person or by counsel
72 and such appearance shall be entered of record. If the board

73 of railroad commissioners, after notice and hearing the
74 parties, finds that all the provisions of sections one and two
75 have been complied with, and that public convenience requires
76 the construction of such railroad, said board shall endorse
77 upon said articles a certificate of such facts and the approval
78 of the board in writing, which certificate shall be filed with
79 their clerk within thirty days after such hearing. Within
80 five days after the filing of such certificate with him, said
81 clerk shall notify all who have become parties of record as
82 aforesaid or their counsel of such determination, by sending
83 to each such party or their counsel, by mail, a certified copy
84 of such certificate so filed with him. Any party of record
85 who is dissatisfied with such determination may appeal there-
86 from, at any time within fifteen days from the date of filing
87 such certificate, to the supreme judicial court next to be
88 holden in any county where any part of said railway is
89 located, more than thirty days from the date of filing said
90 certificate with said clerk as aforesaid, excluding the day of
91 the commencement of the session of said court. An appeal
92 shall lie by any interested party from the decision of the board
93 of railroad commissioners, in any case heard prior to the
94 passage of this act, provided such appeal is taken at any time
95 within three months from the time when this act goes into
96 effect. The appellant shall serve written notice of such
97 appeal upon said board of railroad commissioners, fourteen
98 days, at least, before the session of said court, and shall at
99 the first term file a complaint, setting forth substantially the
100 facts of the case. Upon the entry of said appeal, the court
101 shall appoint a committee consisting of three justices of the
102 supreme judicial court, of whom the presiding justice may,
103 by consent of parties, be one, provided, however, that one
104 such justice may be mutually agreed upon and appointed

105 as such committee, by the parties to the appeal. Said com-
106 mittee shall appoint a day for a hearing upon said appeal,
107 and the appellants shall give such notice thereof as said com-
108 mittee deem reasonable and proper, in order that all persons
109 interested may have opportunity to appear and object
110 thereto. Said committee, after such hearing, shall deter-
111 mine whether public convenience requires the construction
112 of such road. The decision of the committee, or a major-
113 ity thereof if three are appointed, when filed in court, shall
114 be final and conclusive upon all parties without further
115 action of the court, and such decision shall forthwith be
116 certified to the board of railroad commissioners. The com-
117 pensation of the committee shall be paid by the parties, and
118 costs taxed as the court may order.

The secretary of State, shall, upon payment of twenty dol-
120 lars to the State treasurer, cause the same with the endorse-
121 ment thereon to be recorded, and shall issue a certificate in
122 the following form :

Be it known that whereas (here the names of the subscrib-
124 ers to the articles of association should be inserted) have
125 associated themselves together with the intention of forming
126 a corporation under the name of (here insert the name of the
127 corporation) for the purpose of building and operating a
128 street railway in (here insert a description of the road con-
129 tained in the articles of association) and have complied with
130 the statutes of the State in such cases made and provided.
131 Now therefore I (here insert the name of the secretary of
132 the State of Maine) hereby certify that said (names of sub-
133 scribers) their associates and successors, are legally organ-
134 ized and established as an existing corporation under the
135 name of (name of corporation) with the powers, rights and
136 privileges and subject to the limitations, duties and restric-
137 tions which by law appertain thereto.

23 shall present to the railroad commissioners a petition for ap-
24 proval of location, accompanied with a plan of the proposed
25 line on an appropriate scale, defining its courses, distances
26 and boundaries, and with the written approval of the pro-
27 posed route and location as to streets, roads or ways of the
28 municipal officers of the cities and towns in which said rail-
29 way is to be constructed in whole or in part, and with a
30 report and estimate prepared by a skillful engineer. If the
31 municipal officers upon a written application therefor, neglect
32 for thirty days to approve a route and location as to streets,
33 roads or ways, or if they refuse to approve such a route and
34 location, or if such route and location approved by them is
35 not accepted by the corporation, in either case, said corpora-
36 tion may appeal to the next term of the supreme judicial
37 court to be held in any county where any part of said railway
38 is located, more than thirty days from the expiration of said
39 thirty days, or from the date of such refusal, or from the
40 approval of a location that is not accepted by the corporation
41 or otherwise, as the case may be, excluding the day of the
42 commencement of the session of said court. If said railway
43 is located in two or more counties, the supreme judicial court
44 in either county shall have jurisdiction of any such appellate
45 proceedings. The appellants shall serve written notice of
46 such appeal upon said municipal officers fourteen days, at
47 least, before the session of said court, and shall at the first
48 term file a complaint setting forth substantially the facts of
49 the case. If the appeal is then entered, and not afterwards,
50 the court shall appoint a committee of three disinterested
51 persons who shall be sworn and if one of them dies, declines
52 or becomes interested, the court may appoint some suitable
53 person in his place, and they shall give such notice as the
54 court has ordered, view the proposed route or routes, and
55 location or locations, and make their report at the next term

56 of the court after their appointment, defining therein the
57 route and location as to streets or ways as determined by
58 them, which after acceptance and entry of judgment thereon,
59 shall forthwith be certified to the railroad commissioners and
60 received by them in lieu of the approval of the municipal offi-
61 cers. Costs may be taxed and allowed as the court may
62 order. A failure to appeal shall not bar the corporation from
63 making a new application to the municipal officers. Said
64 commissioners shall, upon presentation of such petition,
65 appoint a day for a hearing thereon, and the petitioners shall
66 give such notice thereof as said commissioners deem reason-
67 able and proper, in order that all persons interested may have
68 an opportunity to appear and object thereto. At such hear-
69 ing any party claiming to be interested may appear in person
70 or by counsel and such appearance shall be entered of record.
71 The board of railroad commissioners, after hearing the peti-
72 tion, shall, if they approve such location, subject to the pro-
73 visions of section nine, make a certificate of such determina-
74 tion in writing. If the board of railroad commissioners
75 approve said location, the corporation may then proceed with
76 the construction of said road, provided that they first file
77 with the clerk of county commissioners of the county in
78 which said street railroad is to be located, a copy of the loca-
79 tion and plan aforesaid, and another copy of the same with
80 the board of railroad commissioners. Any extension of,
81 addition to or variation from the location by any street rail-
82 way organized under the provisions of this act may be made
83 in accordance with, and subject to the limitations of the fore-
84 going provisions, provided, that no railway shall be located
85 across tide waters, where vessels can navigate, without
86 special permission of the legislature first obtained. But no
87 such permission shall be necessary where such railways desire
88 to cross public bridges already erected, but the authority to

89 determine whether such crossing shall be permitted shall rest
90 with the municipal officers of the cities or towns liable for the
91 repair of such bridges, respectively, who may impose such
92 conditions and terms upon railways desiring to cross the
93 same as to them may seem expedient. In case any county
94 is liable for the repair of a bridge, the county commissioners
95 of such county shall have authority in the premises. But no
96 road shall be located under this act, over any street in any city
97 in this State, without the permission of the mayor and alder-
98 men thereof, unless it shall be otherwise determined by a com-
99 mittee of judges of the supreme judicial court, on appeal, as
100 hereinbefore provided for appeals from the decisions of the
101 board of railroad commissioners, and such appeal may be
102 taken by any party interested, including an existing street
103 railroad claiming to be injuriously affected by such loca-
104 tion, to the supreme judicial court, substantially in the man-
105 ner and with the effect as hereinbefore provided.'



STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, March 3, 1899.

Reported by Mr. LEAVITT of Eastport, from Committee on Railroads,
Telegraphs and Expresses, and ordered printed under joint rules.

W. S. COTTON, *Clerk.*