

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# Seventy-first Legislature.

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SENATE.

No. 108

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND THREE.

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AN ACT to provide for the ownership and maintenance of high-  
way bridges by the State and the several counties.

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

Section 1. The county commissioners of the several coun-  
ties prior to the first day of June, nineteen hundred and three,  
shall inspect and make a list of all highway bridges fifty feet  
or more in length, exclusive of necessary approaches, and  
forming a part of any legally established road, in their respec-  
tive counties. Said lists shall contain a description of each  
bridge, stating its location, length, the material of which it  
is built, the foundation upon which it rests, and its value, as  
of said first day of June. In determining the value of any

10 such bridge the commissioners shall deduct therefrom any  
11 aid received from the State, the United States, or any indi-  
12 vidual, firm or corporation in the construction and mainten-  
13 ance of the same, said deduction not to exceed the present  
14 value of said bridge. Said commissioners shall, on or before  
15 said first day of June, file a copy of said lists, signed by them,  
16 with the treasurer of their respective counties, and with the  
17 State treasurer. Such lists shall be the official lists of the  
18 bridges to be taken under this act, and the values therein  
19 stated for iron and steel bridges, or any iron or steel span  
20 of any bridge, shall be the basis for all payments to the sev-  
21 eral towns and counties therefor. Such bridges shall become,  
22 on said first day of June, the property of the counties in which  
23 they are located, and shall be known as State and county  
24 bridges, and shall be so designated by sign or number thereon.  
25 From and after said first day of June the county commis-  
26 sioners shall have the supervision, repairing, maintaining,  
27 building and rebuilding of such bridges in their respective  
28 counties.

Sect. 2. Two-thirds of the total value of the iron and steel  
2 bridges, or iron or steel spans of any bridge, in each town,  
3 according to the lists aforesaid, shall be paid by the county  
4 to such town, in not more than ten annual installments, except  
5 as hereinafter provided, beginning with the year nineteen  
6 hundred and three, without interest on the unpaid install-  
7 ments. Said payments to the several towns shall be in cash  
8 and the county commissioners shall not offset against the  
9 county tax of any town the amount of such payment. Said  
10 commissioners shall include said installment in their annual  
11 estimate, and said amount shall be assessed upon the county  
12 as are other county expenses. One-third of the total value  
13 of the iron and steel bridges, or iron or steel spans of any  
14 bridge, in each county, according to the lists aforesaid, shall  
15 be paid by the State to such county in not more than ten

16 annual installments, beginning with the year nineteen hun-  
17 dred and three, without interest on the unpaid installments.  
18 Said payments to the several counties shall be in cash.

Sect. 3. Repairs on State and county bridges shall be made  
2 by the commissioners of the county or counties in which such  
3 bridge is located at the expense of said county or counties.  
4 They shall annually render to the governor and council an  
5 itemized statement of all money expended for repairs under  
6 this act. The governor and council shall authorize the State  
7 treasurer to repay to each county one-half of the amount so  
8 expended unless they find such expenditures exorbitant and  
9 excessive, in which case they shall order a repayment of one-  
10 half of such part as they find to be reasonable. But no item  
11 of expenditure for repairs shall be reduced or stricken from  
12 said statement until after the commissioners of the county or  
13 counties interested shall have had an opportunity to appear  
14 before the governor and council, or a committee thereof, and  
15 be heard thereon. When any bridge, taken by a county and  
16 the State under the provisions of this act, is wholly or in part  
17 kept in repair, or any money or other thing is contributed to  
18 a town by any individual, firm or corporation for the main-  
19 tenance of such bridge, under or by virtue of any existing  
20 contract, or judgment or decision of any tribunal, the county  
21 and State shall succeed to all the rights of said town under  
22 said contract, judgment or decision.

Sect. 4. The county commissioners shall have the same  
2 right to take land or any private property for the purpose of  
3 locating a new bridge as they now have in laying out, alter-  
4 ing or discontinuing highways in incorporated places. The  
5 rights and remedies of all parties shall be the same as now  
6 provided by law for land taken for laying out, altering and  
7 discontinuing highways. The damages therefor shall be  
8 paid by the county, but no damage shall be paid, nor shall  
9 any right thereto accrue to the claimant, until the land or

10 other property so taken has been entered upon and possession  
11 taken, for the purpose of construction or use.

Sect. 5. When a petition of ten or more inhabitants of any  
2 town or towns, praying for the construction of a bridge  
3 therein, fifty feet or more in length, exclusive of necessary  
4 approaches, on any legally established road, is presented to  
5 the county commissioners, said commissioners shall give the  
6 notice now required by law for laying out, altering or discon-  
7 tinuing highways, and if, after hearing the parties, they  
8 decide that public necessity requires the construction of such  
9 bridge, they shall render to the municipal officers of the town  
10 or towns where such bridge is to be located an estimate of  
11 the amount necessary to build the same. If said commis-  
12 sioners decide that such bridge is not required by public  
13 necessity, the petitioners, within sixty days after such deci-  
14 sion, may appeal to a committee of three members of the  
15 executive council, to be appointed by the governor to hear  
16 and determine said appeal. Said committee after reasonable  
17 notice shall hear the parties, and determine whether such  
18 public necessity exists, and its decisions thereon shall be final.  
19 If said committee decides that such public necessity exists,  
20 it shall so certify in writing to the commissioners of the  
21 county, and the municipal officers of the town or towns in  
22 which said bridge is to be located. The county commis-  
23 sioners shall thereupon estimate the cost of building such  
24 bridge, and certify the same, in writing, to the municipal  
25 officers of said town or towns. When said town or towns  
26 shall raise and pay to the county treasurer one-third of the  
27 amount so certified by the county commissioners the commis-  
28 sioners shall, at the expense of the county, build such bridge.  
29 Upon the completion of said bridge said commissioners shall  
30 certify to the governor and council and the municipal officers  
31 of said town or towns, the cost of said bridge. The governor

32 and council shall thereupon authorize and direct the State  
33 treasurer to pay to such county one-third of the cost certified,  
34 in the manner hereinafter provided. If the total cost shall  
35 exceed the estimate certified to the town or towns, said town  
36 or towns shall pay to the county treasurer the difference  
37 between the amount originally paid by them and one-third  
38 of such excess. If the cost is less than the original estimate  
39 the county commissioners shall repay to said town or towns  
40 one-third of such excess. When any sum is to be paid to or  
41 by two or more towns or two or more counties hereunder,  
42 such sum shall be apportioned and paid in the ratio of the  
43 last preceding State valuations of said towns or counties.

Sect. 6. When a petition is presented to the commissioners  
2 of any county, praying for the construction of a bridge fifty  
3 feet or more in length, exclusive of necessary approaches,  
4 on any legally established road, to be located in two or more  
5 counties, the commissioners receiving the petition shall call  
6 a meeting of the commissioners of all said counties, to be  
7 held at a time and place named, by causing an attested copy  
8 of such petition and their order thereon to be served upon  
9 their chairmen; and they shall give notice of such meeting  
10 by causing a like copy to be published in at least one paper  
11 printed in every such county, and by posting it in three public  
12 places in each town in which said bridge is asked to be  
13 located, and serving it on the clerk thereof. These notices  
14 shall be posted, served and published at least thirty days  
15 before the time of meeting. Each county must be repre-  
16 sented at such meeting by a majority of its commissioners.  
17 A majority of those present may render a decision. The  
18 duty of carrying that judgment into effect shall be performed  
19 by such members of the boards of commissioners interested  
20 as the commissioners shall designate. When each county is  
21 not so represented those present may adjourn the meeting to  
22 another time. Appeals may be taken as provided in section

23 five. If said commissioners, or, on appeal, the committee of  
24 the executive council, decide that public necessity requires  
25 the building of said bridge, they shall so certify to the com-  
26 missioners of the counties, and the municipal officers of the  
27 several towns in which said bridge is to be located. The  
28 commissioners of said counties shall thereupon estimate the  
29 cost of building said bridge, and certify the same, in writing,  
30 to the municipal officers of said towns. When said towns  
31 shall raise and pay to the treasurer of their respective coun-  
32 ties, one-third of the amount so certified by the commis-  
33 sioners, the amount to be paid by each town being appor-  
34 tioned as provided in section three, the commissioners shall,  
35 at the expense of said counties, build such bridge. Upon the  
36 completion of said bridge said commissioners shall certify  
37 to the governor and council the cost of said bridge, and the  
38 governor and council shall thereupon authorize and direct  
39 the State treasurer to pay to such counties, one-third of the  
40 cost as certified, in the manner hereinafter provided. If the  
41 total cost shall exceed the estimate certified to the town or  
42 towns, said town or towns shall pay to their respective county  
43 treasurers the difference between the amount originally paid  
44 by them and one-third of such excess. If the cost is less than  
45 the original estimate the county commissioners shall repay to  
46 said town or towns one-third of such excess.

Sect. 7. When a petition is presented to the commissioners  
2 of any county for the purchase of any private or toll bridge,  
3 for the purpose of making the same a highway bridge, the  
4 commissioners shall proceed on said petition as provided in  
5 section five, if said bridge is located wholly within the county,  
6 and as provided in section six, if said bridge is located in two  
7 or more counties. If the prayer of said petitioners is granted,  
8 said commissioners and the owners of said bridge shall agree,  
9 if possible, upon the amount to be paid for such bridge and  
10 its appurtenances. If they are unable to agree, the amount

11 to be paid shall be determined by a committee of three dis-  
12 interested men, to be appointed by the chief justice of the  
13 supreme judicial court, the award of a majority of whom  
14 shall be reported to the supreme judicial court in the county  
15 where the original petition was filed in term time or vacation,  
16 and the said chief justice may confirm the same or recommit it  
17 for the correction of errors, if justice so requires. The  
18 award of said committee shall be conclusive as to amount.  
19 The commissioners of said county or counties in case of fail-  
20 ure to agree with the owners of such toll-bridge upon the  
21 amount to be paid for such bridge and appurtenances, may  
22 at any time file a petition in the clerk's office of the supreme  
23 judicial court for the county or counties interested, in term  
24 time or vacation. When the amount so to be paid has been  
25 determined as aforesaid the county commissioners aforesaid  
26 shall certify, in writing such amount to the municipal officers  
27 of the town or towns where such bridge is located. When  
28 said town or towns shall have raised and paid to said com-  
29 missioners one-third of the amount so certified, the commis-  
30 sioners shall forthwith cause to be paid to the owner or  
31 owners of said bridge the amount determined as aforesaid.  
32 When said payment shall have been made the commissioners  
33 shall certify to the governor and council the cost of said  
34 bridge and the governor and council shall thereupon author-  
35 ize and direct the State treasurer to pay such county one-  
36 third of the amount certified, in the manner hereinafter  
37 provided.

Until the owners of such toll-bridge shall have received the  
39 amount agreed upon, or determined as aforesaid, their right  
40 to take tolls, as existing at the beginning of the proceedings  
41 specified in this act, shall be continued, subject, however, to  
42 legislative regulation. The provisions of this act shall not  
43 be construed as affecting in any way the right of owners of



44 toll-bridges to surrender such bridges to any county, as now  
45 provided by law.

From the value of such toll-bridge, as agreed upon or  
47 determined as aforesaid there shall be deducted any aid  
48 received from this State or the United States in the construc-  
49 tion or repairing of said bridge.

From and after the payment of said value to the owners of  
51 such bridge, such bridge and its approaches shall be a high-  
52 way and shall be thereafter maintained as provided in this  
53 act for other State and county bridges. Any corporation  
54 owning such a toll-bridge so to be purchased is hereby  
55 authorized to sell the same as aforesaid.

Sect. 8. In the event of the destruction of any State and  
2 county bridge by fire, flood or other casualty, the county com-  
3 missioners shall immediately rebuild the same, without wait-  
4 ing for the town or towns in which said bridge is located to  
5 pay in one-third of the cost thereof. Said town or towns  
6 upon receipt of a certificate from the county commissioners  
7 stating the cost of rebuilding said bridge, shall raise and pay  
8 to said commissioners one-third of the cost so certified, withi-  
9 n one year thereafter.

Sect. 9. The municipal officers of any town or towns where  
2 a State and county bridge is located shall act as agents to the  
3 county commissioners in repairing any sudden defect, ren-  
4 dering public travel dangerous. They shall immediately  
5 notify said commissioners of said defect, and shall make such  
6 repairs as are necessary to make said bridge safe for the  
7 public travel. When said repairs shall have been completed  
8 they shall file with the commissioners an itemized statement  
9 of the amount expended therefor, which shall be paid by the  
10 county, if the commissioners, on examination, find such  
11 amount reasonable. If after twenty-four hours actual notice  
12 the municipal officers neglect to repair any sudden defect in

13 a State and county bridge, the town or towns where such  
14 bridge is located shall be liable to the county for all damages  
15 for injuries to persons and property caused thereby.

Sect. 10. Whoever receives any bodily injury, or suffers  
2 damage in his property, through any defect or want of repair  
3 or sufficient railing, in any State or county bridge, may  
4 recover for the same in a special action on the case, to be  
5 commenced within one year from the date of receiving such  
6 injury, or suffering damage, of the county obliged by the  
7 provisions of this act to repair the same, if the commissioners  
8 of such county, or the municipal officers of the town or towns  
9 in which said bridge is located, had twenty-four hours actual  
10 notice of the defect or want of repair; but not more than two  
11 thousand dollars in the case of a county; and if the sufferer  
12 had notice of the condition of such bridge previous to the  
13 time of injury he cannot recover of a county unless he has  
14 previously notified one of the county commissioners of the  
15 defective condition of said bridge; and any person who sus-  
16 tains injury or damage, as aforesaid, or some person in his  
17 behalf, shall within fourteen days thereafter, notify one of  
18 the county commissioners of such county, or the clerk of  
19 courts therein, by letter or otherwise, in writing, setting forth  
20 his claim for damages and specifying the nature of his  
21 injuries and the nature and location of the defect which  
22 caused such injury. If the life of any person is lost through  
23 such defect, his executors or administrators may recover of  
24 such county liable to keep the same in repair, in an action on  
25 the case, brought for the benefit of the estate of the deceased,  
26 such sum as the jury may deem reasonable as damages, not  
27 exceeding five thousand dollars, if the parties liable had said  
28 notice of the deficiency which caused the loss of life; at the  
29 trial of any such action the court may, on motion of either  
30 party, order a view of the premises where the defect or want  
31 of repair is alleged, when it would materially aid in a clear

32 understanding of the case. Any action for damages under  
33 the provisions of this section may be brought in any county  
34 or counties where such bridge is located, or in any adjoining  
35 county, at the election of the plaintiff. When on the trial  
36 of any such action it appears that the defendant county  
37 included said bridge in the list of bridges called for by sec-  
38 tion one of this act, it shall not deny the location of said  
39 bridge, nor that it is a State and county bridge. No county  
40 is liable for such an injury when the weight of the load,  
41 exclusive of the carriage, exceeds six tons. Proof of its  
42 weight must be made by the plaintiff.

Sect. 11. Payments by the State for the purchase or con-  
2 struction of bridges under this act, shall be made in not more  
3 than ten equal annual installments, together with interest at  
4 the rate paid by the county or counties in which such bridge  
5 is located.

Sect. 12. If the appropriation made by the State for the  
2 construction of new bridges, and the purchase of toll-bridges  
3 hereunder, is insufficient in any year to furnish aid to  
4 all the counties applying therefor, they shall receive such aid  
5 in the order in which their applications were presented, pro-  
6 viding the other conditions of this act have been complied  
7 with, and those counties whose claims cannot be paid in any  
8 year by reason of such lack of funds shall have the preference  
9 of all others in the succeeding year, and shall be the first  
10 to receive aid out of the appropriation for that year. Appli-  
11 cations for reimbursement for repairs shall be paid out of  
12 the State appropriation for that purpose in the order above  
13 provided for claims for construction. In the event that there  
14 is in any year an unexpended balance of the State appropria-  
15 tion for construction, or purchase of toll bridges, said balance  
16 shall be transferred to the appropriation for maintenance for  
17 that year, and vice versa; or such balance, in the discretion

18 of the governor and council may be carried over and added  
19 to the appropriation of the next year for the same purpose.

Sect. 13. The commissioners of the several counties are  
2 hereby authorized, if they shall deem it expedient, to obtain  
3 a loan or loans of money for the purpose of paying the sev-  
4 eral towns therein for the two-thirds interest of said towns  
5 in the bridges to be paid for under the provisions of this act,  
6 for the construction of new bridges and for the purchase of  
7 toll-bridges, and cause notes or obligations of their respective  
8 counties with coupons for interest not exceeding six per  
9 centum per annum to be issued upon such time, not less than  
10 ten nor more than forty years, as they may deem expedient.

Sect. 14. The word "town" in this act shall be construed  
2 as including cities, towns and organized plantations.

Sect. 15. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.

Sect. 16. This act shall take effect when approved.

STATEMENT OF FACTS, TO ACCOMPANY SENATE  
DOCUMENT No. 108.

The Committee on Ways and Bridges to whom was referred bill "An Act to maintain large bridges by the County and State," have reported the same in a new draft, entitled "An Act to provide for the ownership and maintenance of highway bridges by the State and the several Counties," with the recommendation of "ought to pass," and an accompanying resolve, making an appropriation for carrying the act into effect.

The bill provides that all highway bridges fifty feet or more in length, exclusive of necessary approaches, forming a part of any legally established road, shall, on June 1, 1903, become the property of the county or counties in which they are located. The wooden bridges of that description are to be assumed by the county without any payment to the towns therefor. So many of these bridges, more than half, are not in good condition, that it was not deemed advisable by the committee to subject the counties and State to any expense therefor. Highway bridges not being an article of property, your committee felt that if the counties and State assumed the expense of maintenance and replacing of the wooden bridges, as they have to be replaced, the towns would have no cause of complaint.

Of the iron and steel bridges, or such spans of any bridge as are of iron and steel, the towns are to bear one-third of the present value, the remaining two-thirds being assumed equally by the county and State, at a valuation to be made by the several boards of county commissioners. Your committee deemed it just to provide that any sums received by a town from outside parties for construction or maintenance of such bridges should be deducted from the valuation, it being the intention to reimburse the towns solely for a part of the expense incurred by them. Wherever a bridge is supported wholly or in part by parties other than the town, by virtue of a contract, or under any judgment or decision of any tribunal, the bill provides that the county and State shall succeed to all rights of the town thereunder.

The construction of new bridges fifty feet or more in length, and the purchase of toll bridges are to be shared equally by the town, county and State. Repairs are to be borne equally by the county and State, and are to be made by the county commissioners.

Methods of procedure are established for the construction of new bridges and the purchase of toll bridges, based on existing statutes and precedents. The section regulating damages for personal injuries is practically the present highway damage statute, with such minor changes as seemed necessary to the committee in substituting county for town liability.

Payments by the State for construction and purchase are to be made in not more than ten annual installments, but provision is made for the counties to issue bonds for those purposes if the county commissioners think it expedient to do so. The bill contemplates that the expense of maintenance shall be met by taxation each year.

The original cost of the bridges to be purchased under this act is approximately \$1,310,000. The present value of these bridges would be somewhat, but probably not much, less than that amount. Using that sum as a basis of computation, the amount to be assumed by the State would be \$436,730, requiring an annual payment of \$43,673 for ten years. The committee recommend an appropriation for this purpose, including purchase of toll bridges, of \$44,000.

From information received from letters sent to the various county commissioners, and from the experience of the members of the committee, we estimate the annual expense of maintenance of steel bridges at two per cent of the construction cost, and of wooden bridges about five per cent. On the cost figures given the State assessors the cost of maintenance would be about \$34,000. This would gradually decrease as steel bridges are substituted for wooden. The committee recommend an appropriation for this purpose of \$34,000 for the current year, and \$33,000 for the year 1904.

The amount called for for construction, cannot, of course, be estimated exactly for any one year, but your committee believe that an appropriation of \$10,000 for the current year will be sufficient. This represents a total construction, for this year

of \$300,000, the one-third borne by the State being \$100,000, or \$10,000 per year for ten years. For 1904 the committee recommend an appropriation of \$17,000, one or more large bridges, notably the one in Portland, having to be provided for in that year. The total amount estimated as necessary for the year 1903 is \$90,000, and for the year 1904 is \$96,000.

## MAJORITY REPORT.

The Committee on Ways and Bridges, to which was referred the bill, entitled "An Act to maintain large bridges by the county and State," have had the same under consideration, and ask leave to report the same in a new draft, under title of "An Act to provide for the ownership and maintenance of highway bridges by the State and the several counties," and that it ought to pass.

Per order.

ALBION OAKES,  
LUTHER MADDOCKS,  
ALBERT A. BURLEIGH,  
ALDEN E. HOWES, by A. A. B.,  
HENRY A. GAGNON,  
JOHN KNOWLTON,

*For the Committee.*

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MINORITY REPORT.

The Committee on Ways and Bridges, to which was referred the bill, entitled "An Act to provide for the ownership and maintenance of highway bridges by the State and the several counties," have had the same under consideration, and ask leave to report that the same ought not to pass.

Per order.

ROBERT B. LOW,  
CHARLES L. JONES,

*For the Minority.*



STATE OF MAINE.

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IN SENATE, February 24, 1903.

Pending acceptance of either report, laid on table to be printed,—  
majority report on motion by Mr. MADDOCKS of Lincoln, minority  
report on motion by Mr. STETSON of Penobscot.

KENDALL M. DUNBAR, *Secretary*.