

MAINE STATE LEGISLATURE

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SEVENTY-SECOND LEGISLATURE

HOUSE.

No. 71

STATE OF MAINE.

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

AN ACT to amend section seven of chapter fifty-three of the Revised Statutes relating to locations of street railroads organized under the general laws of the State.

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

Section 1. Section seven of chapter fifty-three of the
2 Revised Statutes is hereby amended by striking out the
3 following words: "If the municipal officers, upon written
4 application therefor, neglect for thirty days to approve a
5 route and location as to streets, roads or ways, or if they
6 refuse to approve such a route and location, or if such route
7 and location approved by them is not accepted by the cor-
8 poration, in either case said corporation may appeal to the
9 next term of the supreme judicial court to be held in any
10 county where any part of said railroad is located, more than
11 thirty days from the expiration of said thirty days, or from

12 the date of such refusal, or from the approval of a location
13 that is not accepted by the corporation, or otherwise, as the
14 case may be, excluding the day of the commencement of
15 the session of said court. If said railroad is located in two
16 or more counties the supreme judicial court in either county
17 shall have jurisdiction of any such appellate proceedings.
18 The appellant shall serve written notice of such appeal upon
19 said municipal officers fourteen days at least before the
20 session of said court, and shall at the first term file a com-
21 plaint setting forth substantially the facts of the case. If
22 the appeal is then entered, and not afterwards, the court
23 shall appoint a committee of three disinterested persons
24 who shall be sworn, and if one of them dies, declines or
25 becomes interested the court may appoint some suitable
26 person in his place. They shall give such notice as the
27 court has ordered, view the proposed route or routes, and
28 location or locations, and make their report at the next term
29 of the court after their appointment, defining therein the
30 route and location as to streets, roads or ways as determined
31 by them, which, after acceptance and entry of judgment
32 thereon, shall forthwith be certified to the railroad commis-
33 sioners and received by them in lieu of the approval of the
34 municipal officers. Costs may be taxed and allowed as the
35 court may order. A failure to appeal shall not bar the
36 corporation from making a new application to municipal
37 officers," and inserting in the place thereof the following
38 words: 'If the municipal officers upon written application
39 therefor neglect for thirty days to approve a route and loca-
40 tion as to streets, roads or ways, or if they refuse to
41 approve such a route and location, or if such route and loca-
42 tion approved by them is not accepted by the corporation,
43 in either case said corporation may in its petition aforesaid
44 pray for the approval of its route and location by the board

45 of railroad commissioners, accompanied by a declaration
46 under oath by a majority of its directors that the said
47 municipal officers of any town or towns through which the
48 route and location is to pass has unreasonably refused or
49 neglected to approve the said route and location or have
50 approved a location not acceptable to said company and
51 the railroad commissioners after having given notice to said
52 municipal officers of the time and place set for the hearing
53 shall have authority to approve a route and location and
54 to proceed with said petition as if said location and route
55 had been approved by the municipal officers of said town
56 or towns. And in case said location and approval is so
57 made by the railroad commissioners in any town the pro-
58 ceedings by said railroad commissioners, or a certified copy
59 thereof, shall be recorded in the town upon the book where
60 highways are recorded, at the expense of the petitioner,
61 so that said section as amended shall read as follows:

‘Section 7. Every corporation organized under the fore-
63 going provisions before commencing the construction of its
64 road, shall present to the railroad commissioners a petition
65 for approval of location, defining its courses, distances and
66 boundaries, accompanied with a map of the proposed route
67 on an appropriate scale, with the written approval of the
68 proposed route and location as to streets, roads or ways of
69 the municipal officers of the cities and towns in which said
70 railroad is to be constructed, in whole or in part, and with
71 a report and estimate prepared by a skilful engineer. Said
72 commissioners shall upon presentation of such petition
73 appoint a day for a hearing thereon and the petitioner shall
74 give such notice thereof as said commissioners deem rea-
75 sonable and proper, in order that all persons interested
76 may have an opportunity to appear and object thereto. At
77 such hearing any party interested may appear in person or

78 by counsel. The board of railroad commissioners after
79 hearing the petition shall, if they approve such location,
80 subject to the provisions of section twelve, then determine
81 whether public convenience requires the construction of
82 such road and make a certificate of such determination in
83 writing, which certificate shall be filed with their clerk
84 within thirty days after such hearing. Within five days
85 after the filing of such certificate with him, said clerk shall
86 notify all who have become parties of record as aforesaid,
87 or their counsel, of such determination and decision by
88 sending to each party or their counsel, by mail, a certified
89 copy of such certificate so filed with him. If the board of
90 railroad commissioners approve such location and find that
91 public convenience requires the construction of said road
92 the corporation may proceed with the construction of said
93 road, *provided*, that it first files with the clerk of the county
94 commissioners for the county in which said street railroad
95 is to be located a copy of the location and plan aforesaid
96 and another copy of the same with the board of railroad
97 commissioners. Any extension of, addition to, or variation
98 from the location of any street railroad, organized under
99 the provisions hereof, may be made in accordance with and
100 subject to the foregoing provisions, *provided*, that no rail-
101 road shall be located across tide waters where vessels can
102 navigate unless special permission of the legislature is
103 obtained; no such permission shall be necessary where such
104 railroad is desired to cross public bridges already erected,
105 but the authority to determine whether such crossing shall
106 be permitted shall rest with the municipal officers of the
107 cities or towns liable for the repair of such bridges respec-
108 tively, who may impose such conditions and terms upon
109 railroads desiring to cross the same as to them may seem
110 expedient. In case any county is liable for the repair of a

111 bridge, the county commissioners of such county shall have
112 authority in the premises.'

STATE OF MAINE.

HOUSE OF REPRESENTATIVES,
Augusta, February 7, 1905.

Reported by Mr. HALL from Committee on Railroads and Expresses
and ordered tabled for printing pending recommitment.

E. M. THOMPSON, *Clerk*.