

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# SEVENTY-FOURTH LEGISLATURE

---

HOUSE.

No. 255

---

## STATE OF MAINE.

---

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

---

AN ACT to incorporate the Scarboro and Cape Elizabeth  
Railway Company.

---

*Be it enacted by the People of the State of Maine, as follows:*

Section 1. Samuel D. Plummer of Portland, William F.  
2 Spear of South Portland, Harry S. Jordan of Cape Eliza-  
3 beth, John A. Snow of Scarboro, Otis S. Trafton of West-  
4 brook and Walter J. Gilpatrick of Saco, Maine, their asso-  
5 ciates, successors and assigns, are hereby constituted a cor-  
6 poration by the name of Scarboro and Cape Elizabeth Rail-  
7 way Company, with authority to construct, maintain and  
8 operate by electricity or animal power a street railway with

9 convenient single or double tracks, side tracks or turnouts,  
10 with all necessary or convenient lines of poles, wires, ap-  
11 pliances, appurtenances and conduits, commencing at South  
12 Portland Heights in the city of South Portland and extend-  
13 ing in and through said South Portland and towns of Cape  
14 Elizabeth and Scarboro and city of Westbrook in the county  
15 of Cumberland, State of Maine, upon streets, highways  
16 and property to be fixed and determined by the municipal  
17 officers in said respective towns after the right of way has  
18 been granted by said respective towns and assented to in  
19 writing by said corporation. Said corporation shall, be-  
20 fore commencing construction of its road, present to the  
21 railroad commissioners a petition for approval of location,  
22 defining its courses, distances and boundaries, accompanied  
23 with a map of the proposed route on an appropriate scale  
24 with the written approval of the proposed route and loca-  
25 tion as to streets, roads or ways of the municipal officers  
26 of the cities and towns in which said railroad is to be con-  
27 structed in whole or in part and with a report and estimate  
28 prepared by a skillful engineer. If the municipal officers  
29 upon written application therefor neglect for thirty days  
30 to approve a route and location as to streets, roads or ways,  
31 or if they refuse to approve such a route and location, or  
32 if such route and location approved by them is not accepted  
33 by the corporation, in either case, said corporation may  
34 appeal to the next term of the supreme judicial court to  
35 be held in any county where any part of said railroad is

36 located more than thirty days from the expiration of said  
37 thirty days, or from the date of such refusal, or from the  
38 approval of a location that is not accepted by the corpo-  
39 ration, or otherwise, as the case may be, excluding the day  
40 of the commencement of the session of said court. The  
41 appellant shall serve written notice of such appeal upon  
42 said municipal officers fourteen days at least before the  
43 session of said court and shall at the first term file a com-  
44 plaint setting forth substantially the facts of the case. If  
45 the appeal is then entered, and not afterwards, the court  
46 shall appoint a committee of three disinterested persons, who  
47 shall be sworn, and if one of them dies, declines, or be-  
48 comes interested the court may appoint some suitable person  
49 in his place. They shall give such notice as the court has  
50 ordered, view the proposed route or routes and location or  
51 locations, and make their report at the next term of the  
52 court after their appointment, defining wherein the route  
53 as location as to streets, roads or ways as determined by  
54 them, which, after acceptance and entry of judgment thereon,  
55 shall forthwith be certified to the railroad commissioners  
56 and received by them in lieu of the approval of the municipi-  
57 pal officers. Costs may be taxed and allowed as the court  
58 may order. A failure to appeal shall not bar the corpo-  
59 ration from making a new application to the municipal offi-  
60 cers. Said commissioners shall upon presentation of such  
61 petition appoint a day for hearing thereon and the petitioner  
62 shall give such notice thereof as said commissioners deem

63 reasonable and proper, in order that all persons interested  
64 may have an opportunity to appear and object thereto.  
65 At such hearing any party interested may appear in person  
66 or by counsel. The board of railroad commissioners after  
67 hearing the petition, shall, if they approve such location  
68 subject to the provisions of section twelve of chapter fifty-  
69 three of the revised statutes of Maine, then determine  
70 whether public convenience requires the construction of  
71 such road and make a certificate of such determination in  
72 writing, which certificate shall be filed with their clerk with-  
73 in thirty days after such hearing. Within five days after  
74 the filing of such certificate with him, said clerk shall notify  
75 all who have become parties of record as aforesaid, or their  
76 counsel, of such determination and decision by sending to  
77 each party or their counsel, by mail, a certified copy of  
78 such certificate so filed with him. If the board of railroad  
79 commissioners approve such location and find that public  
80 convenience requires the construction of said road the cor-  
81 poration may proceed with the construction of said road,  
82 provided, that it first files with the clerk of the county com-  
83 missioners for the county in which said street railroad is  
84 to be located a copy of the location and plan aforesaid and  
85 another copy of the same with the board of railroad com-  
86 missioners. Any extension of, addition to, or variation  
87 from the location may be made in accordance with and sub-  
88 ject to the foregoing provisions.

Sect. 2. Said corporation may also maintain and operate  
2 said railway upon and over any lands where land damages  
3 have been mutually settled by the corporation and owners  
4 thereof.

Sect. 3. Said corporation shall have power from time to  
2 time to fix such rates or compensation for transporting per-  
3 sons or property as it may think expedient, and generally  
4 shall have all the powers, and subject to all of the limita-  
5 tions of corporation as set forth in chapter forty-seven of  
6 the revised statutes of Maine.

Sect. 4. Said corporation may make contracts with other  
2 persons or corporations to supply it with electrical power  
3 for all purposes for which it is incorporated.

Sect. 5. The capital stock of said corporation shall not  
2 exceed four hundred thousand dollars, divided into shares  
3 of one hundred dollars each.

Sect. 6. Said corporation is hereby authorized to issue  
2 bonds in such an amount and on such time as may from  
3 time to time be determined in aid of the purposes specified  
4 in this act, and to secure the same by a mortgage of its  
5 franchise and property.

Sect. 7. Said corporation may change the location of  
2 said railway, by first obtaining the written consent of the  
3 municipal officers of said towns, and make additional loca-  
4 tions, subject to the foregoing provisions and conditions;  
5 provided, that the location of any bridge across tide waters

6 where vessels can navigate shall not be changed without  
7 the consent of the county commissioners.

Sect. 8. Nothing in this act shall be construed to prevent  
2 the proper authorities of said towns from entering upon  
3 and temporarily taking up the soil in any street, town or  
4 county road occupied by said railway, for any purpose for  
5 which they may now lawfully take up the same.

Sect. 9. Such corporation is hereby authorized to lease  
2 or sell all of its property and franchises on such terms as  
3 it may determine, also to consolidate with or to acquire by  
4 lease, purchase or otherwise, the lines, property and fran-  
5 chises of any other street railway, whose lines as constructed  
6 or chartered would form connecting or continuous lines  
7 with the line of this company and in such case this cor-  
8 poration shall be entitled to all the privileges, and be sub-  
9 ject to all appropriate conditions or limitations contained  
10 in the charter thus united with or acquired. Whenever any  
11 person or corporation shall be lawfully operating any street  
12 railway to any point to which this corporation's tracks ex-  
13 tend, this corporation may enter upon, connect with and  
14 use the same on such terms and in such manner as they may  
15 be agreed upon between the parties.

Sect. 10. Said corporation shall not be required to run  
2 cars upon its line when the line of the road is blocked with  
3 snow or ice, or when the convenience or wants of the public  
4 do not demand it. And said corporation is permitted to

5 run omnibuses instead of rail cars during such time as the  
6 tracks may be blocked.

Sect. 11. Whenever it is practicable to use existing poles,  
2 or any electric light, telephone or telegraph companies, or  
3 any tree or structure of any kind, for any of the wires of  
4 said corporation and the owners thereof consent to the  
5 free use of the same, or at a price satisfactory to said cor-  
6 poration, shall have the right to use the same; and the  
7 decisions as to the practicability of such use shall be left  
8 to three persons skilled in the science of electricity, one  
9 chosen by said corporation, one by the municipal officers,  
10 and a third by the two so chosen; the decision of the ma-  
11 jority of said board shall be final and the expense of said  
12 tribunal shall be borne by said corporation. In the erection  
13 and maintenance of its poles, posts and wires, said corpo-  
14 ration shall be subject to the general laws of the State,  
15 regulating the erection of posts and lines, for the purposes  
16 of electricity.

Sect. 12. Said corporation shall be and is hereby author-  
2 ized and empowered to purchase or take and hold as for  
3 public uses for the location, construction and convenient  
4 use of its railroad any land outside of the limits of streets,  
5 roads or ways, and all materials in and upon the same not-  
6 withstanding that it may be practicable to locate said rail-  
7 road in such streets, roads or ways, provided that the pro-  
8 cedure in taking such land and materials or limitations or  
9 manner of determining and paying damages shall be the



10 same as provided by revised statute, chapter fifty-one, in  
11 the case of lands taken for steam railroads.

Sect. 13. Said corporation shall be and is further author-  
2 ized and empowered to acquire by purchase real or per-  
3 sonal estate, for any lawful purpose and to hold, occupy,  
4 improve, lease, sell and convey the same.

Sect. 14. Said corporation is hereby authorized and em-  
2 powered to cross any public bridges within said cities of  
3 South Portland and Westbrook and towns of Cape Eliza-  
4 beth and Scarboro already erected, but the authority deter-  
5 mining whether such crossing shall be permitted shall rest  
6 with the municipal officers of said cities or towns aforesaid  
7 liable for the repair of such bridges respectively, who shall  
8 impose such conditions and such terms as they may deem  
9 expedient. In case any county is liable for the repair of  
10 the bridge, the county commissioners of such county shall  
11 have authority in the premises.

Sect. 15. The said company is empowered to maintain  
2 bridges across tide waters, lakes, ponds, and navigable  
3 rivers, and streams which its railroad may cross, provided  
4 that they shall be so constructed as not to unnecessarily  
5 obstruct the navigation of such waters.

Sect. 16. The first meeting shall be called by one or more  
2 of the incorporators by giving notice thereof stating the  
3 time, place and purpose of the meeting to each incorporator

4 in writing, or by publishing in some newspaper printed in  
5 the county of Cumberland, at least fourteen days to the  
6 time appointed therefor.





STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES,

Augusta, Feb. 19, 1909.

Tabled pending reference to a committee by Mr. SPEAR of  
South Portland and ordered printed.

E. M. THOMPSON, *Clerk.*