

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# SEVENTY-FOURTH LEGISLATURE

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HOUSE.

No. 790

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## STATE OF MAINE.

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

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AN ACT to incorporate the Scarboro and Cape Elizabeth Rail-  
way Company.

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*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. Gilpatric of Saco, Maine, their associ-  
5 ates, successors and assigns, are hereby constituted a corpo-  
6 ration by the name of Scarboro and Cape Elizabeth Railway  
7 Company, with authority to construct, maintain and operate  
8 by electricity or other power a street railway with convenient

9 single or double tracks, side tracks and turnouts and switch-  
10 es, 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, Scarborough, Gorham and City of Westbrook, in  
15 the County of Cumberland, State of Maine, upon streets,  
16 highways and property to be fixed and determined by the  
17 municipal officers in said respective towns after the right  
18 of way has been granted by said respective towns and as-  
19 sented to in writing by said corporation. Said corporation  
20 shall, before commencing construction of its road, present  
21 to the railroad commissioners a petition for approval of  
22 location, defining its courses, distances and boundaries, ac-  
23 companied with a map of the proposed route on an appro-  
24 priate scale with the written approval of the proposed route  
25 and location as to streets, roads or ways of the municipal  
26 officers of the cities and towns in which said railroad is to  
27 be constructed in whole or in part and with a report and  
28 estimate prepared by a skillful engineer. If the municipal  
29 officers upon written application therefor neglect for thirty  
30 days to approve a route and location as to streets, roads or  
31 ways, or if they refuse to approve such a route and location,  
32 or if such route and location approved by them is not ac-  
33 cepted by the corporation, in either case, said corporation  
34 may appeal to the next term of the supreme judicial court

35 to be held in any county where any part of said railroad is  
36 located more than thirty days after 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 corpora-  
39 tion, or otherwise, as the case may be, excluding the day of  
40 the commencement of the session of said court. The ap-  
41 pellant shall serve written notice of such appeal upon said  
42 municipal officers fourteen days at least before the session  
43 of said court and shall at the first term file a complaint set-  
44 ting forth substantially the facts of the case. If the ap-  
45 peal is then entered, and not afterwards, the court shall ap-  
46 point a committee of three disinterested persons, who shall  
47 be sworn, and if one of them dies, declines, or becomes in-  
48 terested the court may appoint some suitable person in his  
49 place. They shall give such notice as the court has ordered,  
50 view the proposed route or routes and location or locations,  
51 and make their report at the next term of the court after  
52 their appointment, defining therein the route and location  
53 as to streets, roads or ways as determined by them, which,  
54 after acceptance and entry of judgment thereon, shall forth-  
55 with be certified to the railroad commissioners and received  
56 by them in lieu of the approval of the municipal officers.  
57 Costs may be taxed and allowed as the court may order. A  
58 failure to appeal shall not bar the corporation from making  
59 a new application to the municipal officers. Said commis-  
60 sioners shall upon presentation of such petition appoint a

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

87 in accordance with and subject 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 the limitations  
5 of corporations as set forth in chapter forty-seven of the  
6 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. It is also  
4 authorized and empowered to make, generate, purchase,  
5 sell, distribute and supply electricity for all purposes and  
6 to construct lines with all necessary erections and fixtures  
7 therefor and to hold property, real and personal, necessary  
8 and proper for such purposes, as provided and regulated  
9 by chapter fifty-five of the Revised Statutes.

Sect. 5. The capital stock of the 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 terms 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 said  
2 railway, by first obtaining the written consent of the mu-  
3 nicipal officers of said towns, and make additional locations,  
4 subject to the foregoing provisions and conditions; pro-  
5 vided, 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 pre-  
2 vent the proper authorities of said towns from entering  
3 upon and temporarily taking up the soil in any street, town  
4 or county road occupied by said railway, for the purpose  
5 for 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 corpo-  
8 ration shall be entitled to all the privileges, and be subject  
9 to all appropriate conditions or limitations contained in the  
10 charter thus united with or acquired. Whenever any per-  
11 son 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 may be  
15 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 pub-  
4 lic do not demand it. And said corporation is permitted  
5 to use other vehicles instead of rail cars during such time  
6 as the tracks may be blocked, or when the running of cars  
7 is suspended as aforesaid.

Sect. 11. Whenever it is practicable to use existing poles,  
2 of 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 free  
5 use of the same, or for a price satisfactory to the parties,  
6 said corporation shall have the right to use the same; and  
7 the decisions as to the practicability of such use shall be  
8 left to three persons skilled in the science of electricity,  
9 one chosen by said corporation, one by the municipal offi-  
10 cers, and the third by the two so chosen; the decision of  
11 the majority of said board shall be final and the expense  
12 of said tribunal shall be borne by said corporation. In the  
13 erection and maintenance of its poles, posts and wires, said  
14 corporation 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 authorized and empowered to purchase or take and hold as for public uses for the location, construction and convenient use of its railroad any land outside of the limits of streets, roads or way, and all materials in and upon the same notwithstanding that it may be practicable to locate said railroad in such streets, roads or ways, provided that the procedure in taking such land and materials or limitations or manner of determining and paying damages shall be the same as provided by revised statute, chapter fifty-one, in the case of lands taken for steam railroads.

Sect. 13. Said corporation shall be and is further authorized and empowered to acquire by purchase real or personal estate, for any lawful purpose and to hold, occupy, improve, lease, sell and convey the same and may pay for the same in stock of the corporation at the par value thereof.

Sect. 14. Said corporation is hereby authorized and empowered to cross any public bridges within said cities of South Portland and Westbrook and towns of Cape Elizabeth, Gorham and Scarborough already erected, but the authority determining whether such crossing shall be permitted shall rest with the municipal officers of said cities or towns aforesaid liable for the repair of such bridges respectively, who shall impose such conditions and such terms as they may deem expedient. In case any county is liable for the

10 repair of the bridge, the county commissioners of such  
11 county shall 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.

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HOUSE OF REPRESENTATIVES,

Augusta, March 25, 1909.

Reported by Mr. SPEAR from Committee on Railroads and  
Expresses and ordered printed under joint rules.

E. M. THOMPSON, *Clerk*