

# MAINE STATE LEGISLATURE

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SEVENTY-FIFTH LEGISLATURE

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SENATE

NO. 109

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*In Senate, Feb. 16, 1911.*

*Laid on table on motion by Mr. Donigan of Somerset for printing both reports and Tuesday, Feb. 21, assigned for further consideration.*

*W. C. HANSON, Secretary.*

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STATE OF MAINE

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

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AN ACT for the ownership and maintenance of highway  
bridges by the State and the construction of such bridges  
by the State, county and towns.

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

Section 1. The municipal officers of the several towns  
2 of the different counties in the State shall make an inspec-  
3 tion and list of all the highway bridges that are forty feet  
4 or more in length and constructed prior to the first day of  
5 January, A. D. 1912.

All bridges shall be measured exclusive of approaches,  
7 and must be a part of some legally established road in the  
8 different counties. The lists shall contain a fairly accurate  
9 description of each bridge stating as nearly as may be its

10 location, its length, the number of piers and abutments,  
11 material, or materials of which it is built and the material of  
12 the foundations.

When the municipal officers of different towns have com-  
14 pleted their lists as aforesaid they shall make duplicate  
15 copies thereof and shall on or before the first day of July,  
16 1912, file one of the lists aforesaid with the county  
17 commissioners of their respective counties and the other  
18 with the commissioner of highways of the State of Maine.  
19 It shall be the duty of the county commissioners of the  
20 several counties to forward to the commissioner of high-  
21 ways of the State of Maine any additional information  
22 that he may desire in regard to the provisions aforesaid.  
23 All such bridges shall, after the first day of July, 1912, be  
24 the property of the State of Maine, in consideration of said  
25 State maintaining and repairing the same, and shall there-  
26 afterwards be known as State bridges. All bridges under  
27 construction on the first day of July, 1912, shall when com-  
28 pleted be the property of the State of Maine thereafter-  
29 wards be known as State bridges as hereafter provided.  
30 The commissioner of highways of the State of Maine shall  
31 designate by sign, number or otherwise each and every  
32 bridge in the State and shall have supervision of all main-  
33 tenance, construction and repairs of all bridges over forty  
34 feet in length in the different towns of the State.

Sect. 2. All repairs of the State bridges as aforesaid shall  
2 be made by the commissioners of the different counties of

3 the State wherein such bridges are located at the expense  
4 of the State, county and towns same as new bridges. Such  
5 repairs or renewals shall be made subject to the super-  
6 vision and approval of the commissioner of highways of  
7 the State of Maine. All expense in moneys paid out for  
8 repairs and renewals under this act shall be paid by the  
9 county treasurer in the county wherein the bridge is lo-  
10 cated upon the presentment of a bill approved by the board  
11 of county commissioners or a majority thereof and ac-  
12 companied by proper vouchers for such expense.

The county commissioners in the different counties shall  
14 on the first day of January and July of each year render  
15 to the commissioner of highways of the State of Maine an  
16 itemized statement of all moneys expended together with  
17 the vouchers therefor for the repairs and renewals provided  
18 by this act. Upon approval of the commissioner of high-  
19 ways the governor and council shall authorize the State  
20 treasurer to repay to each county one-third of the amount  
21 so expended; and the town or towns in which the bridge  
22 is located shall also reimburse the county one-third of the  
23 cost so the cost of maintenance shall be borne one-third  
24 by the State, one-third by the county and one-third by the  
25 town or towns.

Such statements forwarded to the commissioner of high-  
27 ways shall be sworn to by the county commissioners of  
28 the respective counties. No items of expenditure shall be  
29 stricken from the statement forwarded by the commission-

30 ers of the several counties, unless said commissioners have  
31 an opportunity to appear before the governor and council  
32 or a committee thereof and be heard thereon.

Whenever a bridge taken by the State under the pro-  
34 visions of this act is wholly or in part kept in repair, or  
35 any money is contributed by any individual, firm or cor-  
36 poration for the maintenance of said bridge under or by  
37 virtue of any existing contract, or judgment or decision  
38 of any tribunal, the State shall succeed to all the rights of  
39 said town under said contract, judgment or decision.

Sect. 3. The county commissioners shall have the same  
2 right to take land or any private property for the pur-  
3 pose of locating a new bridge as they now have in laying  
4 out, altering or discontinuing highways in incorporated  
5 places. The rights and remedies of all parties shall be the  
6 same as now provided by law for land taken for laying  
7 out, altering and discontinuing highways. The damages  
8 thereof shall be paid by the State, but no damage shall be  
9 paid nor shall any right thereto accrue until the land or  
10 other property so taken has been entered upon and posses-  
11 sion taken for the purpose of construction or use.

Sect. 4. Whenever a petition of ten or more inhabitants  
2 of any town or towns is presented to the county commis-  
3 sioners praying for the construction of any bridge there-  
4 in, forty feet or more in length, exclusive of the necessary  
5 approaches on any legally established road, said commis-  
6 sioners shall notify the commissioner of highways of the

7 State of Maine, and also give notice as now required by  
8 law for laying out, altering or discontinuing a high-  
9 way, and if, after a hearing of interested parties, said com-  
10 missioners decide that public necessity requires the con-  
11 struction of said bridge, they shall notify the commissioner  
12 of highways of the State of Maine to that effect, who will  
13 make an investigation and report the result of his researches  
14 to said county commissioners. If his decision is to the ef-  
15 fect that public necessity does not require said bridge, he  
16 will so notify said commissioners, and if they are not sat-  
17 isfied with the decision of said commissioner of highways,  
18 they may within fourteen days after receiving said notice  
19 appeal from his decision to a committee of three members  
20 of the executive council who shall be appointed by the  
21 governor to hear and determine such appeals. If said  
22 county commissioners decide that such a bridge is not re-  
23 quired for public necessity, they shall notify the petition-  
24 ers, or as many of them as they may deem proper, who  
25 may appeal to the committee of the executive council as  
26 aforesaid any time within fourteen days after notice has  
27 been received by them of the decision of said county com-  
28 missioners. In all cases said committee of the executive  
29 council shall give reasonable notice to all parties in such  
30 manner and form as they may determine, and after a pub-  
31 lic hearing they shall decide as to the construction of the  
32 bridge in question and their decision shall be final. If said  
33 committee of executive council shall decide that such pub-

34 lic necessity exists and that the bridge should be built, they  
35 shall so certify in writing to the commissioner of high-  
36 ways of the State of Maine, who shall notify the county  
37 commissioners of the county in which the bridge is located  
38 and the municipal officers of the town or towns. When the  
39 construction of a bridge has been determined upon, either  
40 on an appeal or otherwise, as provided in this Section, the  
41 county commissioners shall proceed to make contracts for  
42 the construction of the same, subject to the approval of  
43 the commissioner of highways. The county commissioners  
44 shall have power to borrow money for this purpose on the  
45 credit of their county and to issue negotiable notes or bonds  
46 for the same.

Upon the completion of the bridge as aforesaid the county  
48 commissioners shall certify to the commissioners of high-  
49 ways and to the municipal officers of the different towns in  
50 which it is located and cost of same. The com-  
51 missioner of highways shall notify the governor and coun-  
52 cil who will authorize the State treasurer to reimburse the  
53 county in which said bridge was located one-third the cost  
54 so certified, and the town or towns in which said bridge  
55 is located shall also reimburse the county for one-third the  
56 cost so certified so that the cost of new bridges constructed  
57 by authority of this Section shall be borne one-third by  
58 the State, one-third by the county, one-third by the town  
59 or towns in which said bridge is located, in proportion to  
60 the valuation of said towns. All bills forwarded to the

61 commissioner of highways shall be sworn to as provided  
62 in a preceding Section.

Sect. 5. When a petition is presented to the commission-  
2 ers of any county praying for the construction of a bridge  
3 forty 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 said 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 on  
9 the chairmen of all interested counties and they shall also  
10 notify by letter, or otherwise the commissioner of high-  
11 ways of the State of Maine the time and place of said meet-  
12 ing. They shall also cause notice of same to be printed  
13 in at least one paper in each of said counties and if there  
14 is no paper in any of the interested counties, then notice  
15 shall be published in an adjoining county, and by posting  
16 a notice of such meeting in two places in each town in  
17 which said bridge is to be located, and also shall cause a  
18 notice of such meeting to be served upon the clerk of the  
19 respective towns; these notices shall be posted, published  
20 and served at least fourteen days prior to the time of said  
21 meeting. The majority of the county commissioners of  
22 the different counties present may render a decision. The  
23 duty of carrying this decision into effect shall be performed  
24 by such member or members of the board of commission-



25 ers as they shall designate. Commissioners may adjourn  
26 from time to time as they may deem advisable.

Appeals from the decisions of the commissioners may be  
28 had as in Section four. If the committee of the executive  
29 council decide upon appeal that the necessity exists and  
30 that the bridge is to be built, they shall so certify in writ-  
31 ing to the commissioner of highways, the chairman of the  
32 board of the commissioners of the interested counties, and  
33 one or more selectmen of the different towns in which the  
34 bridge is to be located. Upon the completion of said bridge  
35 the county commissioners of the different counties shall  
36 certify to the commissioner of highways as in Section four  
37 the cost of said bridge, who in turn will notify the gov-  
38 ernor and council of the same. Upon receipt of the proper  
39 certificate the governor and council shall authorize and di-  
40 rect the State treasurer to reimburse the counties the cost  
41 so certified. In the construction of bridges in two or more  
42 counties each county shall bear an equal part of one-third  
43 of the expense in proportion to their valuation.

Sect. 6. Whenever a toll bridge of a legally established  
2 highway is the property of an individual, firm or corpora-  
3 tion the county commissioners of the different counties  
4 shall give notice to the owners of the intention of the State  
5 of Maine to purchase the same. Said county commissioners  
6 upon due notice to the interested parties, will order a hear-  
7 ing and shall after the same, decide in their judgment how  
8 much shall be paid by the State to the individual, firm or

9 corporation owning the same. If the owners of the bridge  
10 are not satisfied with the amount awarded by the county  
11 commissioners, they shall appeal to the supreme judicial  
12 court of the county in which the bridge is located. If the  
13 bridge is between two or more counties, they may appeal  
14 to the court in either of the counties. The chief justice  
15 of the court or any justice thereof shall appoint three dis-  
16 interested men to determine the value of the bridge in  
17 controversy, who will listen to such evidence of the same  
18 as they may think necessary and shall order notice given  
19 upon such a hearing.

After the hearing as aforesaid, said committee shall re-  
21 port their findings to the clerk of the supreme judicial  
22 court in the county where the original petition was filed.  
23 This may be done either in term time or vacation and the  
24 chief justice or any justice of the supreme judicial court  
25 may confirm the same or recommit it for correction of er-  
26 rors, if in their judgment justice so requires.

Sect. 7. The expenses and pay of said appraisers shall  
2 be paid in equal parts by the State of Maine and by the  
3 individual, firm or corporation owning the bridge. Until  
4 the owners of such toll bridge shall have received the  
5 amount agreed upon or determined as aforesaid their right  
6 to take tolls as existed in the beginnings of the proceedings  
7 specified in this act shall be continued, subject, however, at  
8 all times to legislative regulation. The provisions of the  
9 act shall not be construed as in any way affecting the right

10 of owners of toll bridges to surrender such bridges to the  
11 State or to any county as now provided by law. When-  
12 ever the amount is decided upon the county commissioners  
13 shall certify upon oath the amount as awarded, to the  
14 commissioner of highways of the State, who in turn will  
15 approve the same and forward it to the governor and coun-  
16 cil for payment. The governor and council shall there-  
17 upon authorize and direct the State treasurer to pay the  
18 individual, firm or corporation the amount so certified as  
19 provided by law.

In the vent of the destruction of any State bridge by fire,  
21 flood or other casualty, the commissioner of highways of  
22 the State of Maine shall investigate the same and authorize  
23 the county commissioners to rebuild the same as in Section  
24 four.

Sect. 8. The municipal officers of any town where a State  
2 bridge is located shall act as agent to the county commis-  
3 sioners in repairing any sudden defect which renders pub-  
4 lic travel dangerous. After repairing such defect they shall  
5 immediately notify the county commissioners and shall file  
6 their sworn statement with original vouchers of the actual  
7 money expended for the same, which shall be paid one-  
8 third each by the State, county and town or towns upon  
9 the approval of the county commissioners and commissioner  
10 of highways as provided in the preceding Sections.

If, after twenty-four hours actual notice, the municipal  
12 officers neglect to repair any sudden defect in a State bridge,

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

Sect. 9. Whoever receives any bodily injury or suffers  
2 damage to his property through any defect or want of re-  
3 pair or sufficient railing in any State bridge, they may re-  
4 cover of the town for the same in an action on the case to  
5 be commenced within one year from the date of such in-  
6 jury or suffered damage, provided that the municipal offi-  
7 cers of the town or towns in which the bridge is located  
8 or the county commissioners of the county or counties in  
9 which the bridge is located or the commissioner of high-  
10 ways of the State of Maine had twenty-four hours actual  
11 notice of the defect or want or repair and if the aggrieved  
12 parties had notice of the condition of said bridge previous  
13 to the time of injury, he cannot recover of the town, un-  
14 less he had previously notified one of the municipal officers  
15 of the town or towns wherein the bridge is located, of  
16 the defective condition of said bridge, and any person who  
17 sustains such injury or damage, as aforesaid, or some per-  
18 son in his behalf, shall, within fourteen days thereafter  
19 notify one of the municipal officers of said towns in which  
20 the bridge is located by a sworn statement setting forth  
21 the claims for damages and specifying in writing the na-  
22 ture of the injuries, and the nature and location of the de-  
23 fect which caused the injury.

If the life of any person is lost through such defect his

25 executor or administrator may recover of the town in which  
26 the bridge is located in an action on the case brought for  
27 the benefit of the estate of the deceased, such sum as the  
28 jury may deem a just and fair compensation, not exceed-  
29 ing five thousand dollars, with reference to the pecuniary  
30 injury resulting from such death to the person for whose  
31 benefit such action is brought. In the trial of any such  
32 case the court may, upon motion of either party, order a  
33 view of the premises where the defect or want of repair  
34 is alleged.

Any action for damages under the provisions of this Sec-  
36 tion may be brought in any county or counties where such  
37 bridge is located or in any adjoining county at the election  
38 of the plaintiff.

Sect. 10. Whenever suit is brought against any town in  
2 the State as provided in the preceding Section, the munici-  
3 pal officers of said town shall immediately notify the com-  
4 missioner of highways who shall make an investigation  
5 and notify the attorney-general, who shall defend said case  
6 or adjust it as he may deem right and proper. All bills  
7 for services and the defence or settlement of such actions  
8 shall be approved by the commissioner of highways be-  
9 fore payment, and the town or counties in which the bridge  
10 is located shall pay the same upon the approval of said  
11 commissioner of highways. The State of Maine shall re-  
12 imburse any town for all moneys expended in the defence  
13 or settlement of such action, and shall reimburse said town

14 or counties for any amount paid on a judgment recovered  
15 against the same in an action as provided in the preceding  
16 Section, and also pay the same for counsel fees as afore-  
17 said. The municipal officers of the different towns and  
18 cities shall certify under oath the amount so paid, includ-  
19 ing counsel fees, to the governor and counsel of the State  
20 of Maine, who will authorize the treasurer to reimburse  
21 said town for said amount so paid. In all cases where an  
22 electric railroad passes over a State highway bridge the  
23 compensation for that privilege shall be determined by the  
24 commissioners of said county where such road passes, sub-  
25 ject to appeal to the supreme court.

Sect. 11. The commissioner of highways is hereby au-  
2 thorized and empowered to employ such additional aid as  
3 he may deem necessary to effectually carry out the work  
4 as prescribed by this act, and the payment of the same shall  
5 be from the fund appropriated by the legislature for the  
6 maintenance, building and repair of bridges.

Sect. 12. The word "town" in this act shall be construed  
2 as including cities, towns, organized plantations (and bridge  
3 district.) The word "bridges" as used in this act shall be  
4 construed as including bridges and causeways across tide  
5 waters.

Sect. 13. All acts and parts of acts inconsistent with this  
2 act are hereby repealed.

Sect. 14. A tax of one-half mill on a dollar shall be  
2 assessed upon all property in the State, according to the

3 valuation thereof, and shall be known as the mill tax for  
4 the construction and repair of bridges as heretofore pro-  
5 vided, and the Governor and Council are hereby author-  
6 ized to expend the money derived from such tax for the  
7 purpose heretofore mentioned.

## STATE OF MAINE.

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### MAJORITY REPORT.

The Majority report of Committee on Ways and Bridges, to which was referred the Bill, entitled "An Act for the ownership and maintenance of highway bridges by the State and the construction of such bridges by the State, counties and towns," have had the same under consideration, and ask leave to Report that the same ought to pass in a Majority report, in new draft, under same title.

Per order,

A. F. DONIGAN,  
E. F. HEFFRON,  
EBEN T. HARTWELL,  
J. P. TUCKER,  
A. M. PHILLIPS.

STATE OF MAINE.

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MINORITY REPORT.

The Committee on Ways and Bridges, to which was referred the Bill, in new draft, entitled "An Act for the ownership and maintenance of highway bridges by the State and the construction of such bridges by the State, county and towns," have had the same under consideration, and ask leave to Report that the same ought not to pass.

Per order,

HOWARD WINSLOW,  
C. L. FARNHAM,  
E. P. TURNER,  
JOHN P. LAWRY.