

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 330

House of Representatives, Feb. 24, 1915.

Reported by Mr. Thombs from Special Committee on Revision of Statutes, and ordered printed under joint rules.

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT to amend sections eight, forty-six and fifty-four of chapter twenty-three of the Revised Statutes relating to the compensation of committees in highway proceedings.

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

Section 1. Section eight of chapter twenty-three of the re-
2 vised statutes is hereby amended by striking out the last sen-
3 tence of said section and by inserting in place thereof the fol-
4 lowing sentence: 'The committee shall be allowed a reason-
5 able compensation for their services, to be fixed by the court
6 upon the presentation of their report and paid from the
7 county treasury upon the certificate of the clerk of courts,' so
8 that said section as amended shall read as follows:

Sect. 8. Any person aggrieved by the estimate of damages
10 by the county commissioners, on account of the laying out
11 or discontinuing of a way, may appeal therefrom, at any
12 time before the third day of the regular term succeeding that
13 at which the commissioners' return is made, to the term of
14 the supreme judicial court, first held in the county where
15 the land is situated, more than thirty days after the expira-
16 tion of the time within which such appeal may be taken,
17 excluding the first day of its session, which court shall de-
18 termine the same by a committee of reference if the parties
19 so agree, or by a verdict of its jury, and shall render judg-
20 ment for the damages recovered, and judgment for costs
21 in favor of the party entitled thereto, and shall issue exe-
22 cution for the costs only. The appellant shall file notice of
23 his appeal with the county commissioners within the time
24 above limited, and at the first term of the court shall file a
25 complaint setting forth substantially the facts, upon which
26 the case shall be tried like other cases. The clerk shall cer-
27 tify the final judgment of the court to the county commis-
28 sioners, who shall enter the same of record, and order the
29 damages therein recovered to be paid as provided in section
30 seven. The party prevailing recovers costs to be taxed and
31 allowed by the court, except that they shall not be recovered
32 by the party claiming damages, but by the other party, if
33 on such appeal by either party, said claimant fails to recover
34 a greater sum as damages than was allowed to him by the
35 commissioners. The committee shall be allowed a reason-

36 able compensation for their services, to be fixed by the court
37 upon the presentation of their report and paid from the
38 county treasury upon the certificate of the clerk of courts.'

Sect. 2. Section forty-six of chapter twenty-three of the
2 revised statutes is hereby amended by striking out the next
3 to the last sentence of said section and by inserting in place
4 thereof the following sentence: 'The committee shall be
5 allowed a reasonable compensation for their services, to be
6 fixed by the court upon the presentation of their report and
7 paid from the county treasury upon the certificate of the
8 clerk of courts,' so that said section as amended shall read
9 as follows:

'Sect. 46. Any party interested in such decision may appeal
11 therefrom to the supreme judicial court, to be entered at the
12 term thereof first held after such decision, in said county.
13 And all further proceedings before the commissioners shall
14 be stayed until a decision is made in the appellate court.
15 If no person appears at that term to prosecute the appeal,
16 the judgment of the commissioners shall be affirmed. If
17 the appeal is then entered, not afterwards, the court may
18 appoint a committee of three disinterested persons, who shall
19 be sworn, and if one of them dies, declines or becomes in-
20 terested, the court shall appoint another in his place, and
21 they shall cause notice to be given of the time and place of
22 hearing before them, by publication thereof in the state paper
23 for six successive weeks, the last publication to be fourteen
24 days, at least, before the day of hearing, and personal notice

25 to the appellant and to the chairman of the county com-
26 missioners, thirty days, at least, before the time set for hear-
27 ing; they shall view the route, hear the parties, and make
28 their report at the next or second term of the court after
29 their appointment, whether the judgment of the commis-
30 sioners should be in whole or in part affirmed, or reversed,
31 which, being accepted and judgment thereon entered, shall
32 forthwith be certified to the clerk of the commissioners. If
33 the judgment of the commissioners in favor of laying out,
34 grading or altering a way as prayed for, is wholly reversed
35 on appeal, the commissioners shall proceed no further. If
36 their judgment is affirmed in whole, or in part, they shall
37 carry into effect the judgment of the appellate court; and
38 in all cases, they shall carry into full effect the judgment
39 of the appellate court, in the same manner as if made by
40 themselves; and the party appealing or prosecuting shall pay
41 the costs incurred since the appeal, if so adjudged by the
42 appellate court, which may allow costs in such cases to the
43 prevailing party, to be paid out of the county treasury. The
44 committee shall be allowed a reasonable compensation for
45 their services, to be fixed by the court upon the presentation
46 of their report and paid from the county treasury upon the
47 certificate of the clerk of courts. The costs allowed to the
48 prevailing party, and the fees of the committee shall be col-
49 lected as provided in section three.'

Sect. 3. Section fifty-four of chapter twenty-three of the
2 revised statutes is hereby amended by striking out the next

3 to the last sentence in said section and by inserting in place
4 thereof the following sentence: 'The committee shall be
5 allowed a reasonable compensation for their services, to be
6 fixed by the court upon the presentation of their report and
7 paid from the county treasury upon the certificate of the
8 clerk of courts,' so that said section as amended shall read
9 as follows:

'Sect. 54. If the judgment of the commissioners in favor
11 of laying out, grading or altering a way, as prayed for, is
12 wholly reversed on appeal, they shall proceed no further;
13 and in all cases when the judgment of the commissioners is
14 reversed on appeal, no petition praying, substantially, for the
15 same thing shall be entertained by them for two years there-
16 after. If their judgment is affirmed in whole or in part,
17 they shall carry into effect the judgment of the appellate
18 court; and in all cases they shall carry into full effect the
19 judgment of the appellate court in the same manner as if
20 made by themselves; and the party appealing or prosecuting
21 shall pay the costs incurred since the appeal, if so adjudged
22 by the appellate court, which may allow costs in such cases
23 to the prevailing party, to be paid out of the county treasury.
24 The committee shall be allowed a reasonable compensation
25 for their services, to be fixed by the court upon the presenta-
26 tion of their report and paid from the county treasury upon
27 the certificate of the clerk of courts. The costs allowed
28 the prevailing party, and the fees of the committee,
29 shall be collected as provided in section three; provided,

30 however, that this section shall not apply to any case where
31 the judgment has been reversed on account of informality
32 in the proceedings.'