

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE

1897

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STATE OF MAINE.

1897.

CHAP. 249

Waters ex-
empted
from pro-
visions re-
lating to
migratory
fish.

seventh line thereof, the words "Tunk river in Steuben," so that said section, as amended, shall read as follows:

'Section 31. The following waters and their tributaries are exempt from the provisions relating to migratory fishes and the supervision of the fish ways by the commissioners, that is to say, Royall river in North Yarmouth, Sewall's pond or its outlet in Arrowsic, so much of the waters of the Damariscotta river as are west of the railroad bridge near Damariscotta mills, all waters in Vinalhaven, Tremont, Mount Desert, Eden, Franklin and Sullivan, Pleasant river in Washington county, East Machias river and the Eastern Penobscot river in Orland.'

Approved March 20, 1897.

Chapter 249.

An Act amendatory of and additional to Chapter two hundred and sixty-eight of the Public Laws of eighteen hundred and ninety-three, entitled "An Act to regulate the organization and control of Street Railroads."

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

Section 1,
chapter 268,
public laws
1893,
amended.

Sect. 1. Section one of chapter two hundred and sixty-eight of the public laws of eighteen hundred and ninety-three is hereby amended by inserting after the word "electricity" in the fourth line of said section the words 'compressed air,' so that said section, as amended, shall read as follows:

Street
railroad
companies,
how formed.

'Section 1. Any number of persons not less than five, a majority of whom shall be citizens of this state, may form a company for the purpose of constructing, maintaining and operating by electricity, compressed air or animal power, a street railroad for public use, for street traffic for the conveyance of persons and property, and for that purpose may make and sign articles of association in which shall be stated the name of the company, the gauge of the road, the places, cities and towns from which, in which and to which the road is to be constructed, maintained and operated, the length of such road, as nearly as may be, the amount of capital stock which shall not be less than four thousand dollars for every mile of road proposed to be constructed, the number of shares of which said stock shall consist, and the names and places of residence of at least three persons, a majority of whom shall be citizens of this state who shall act as directors of the proposed company, and manage its affairs until others

—articles
of associa-
tion.

—gauge.

—capital
stock.

—shares.

—directors.

are chosen in their places. Each subscriber shall sign his name, residence and number of shares which he agreed to take in said company.'

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—subscrip-
to articles.

Sect. 2. Section six of said chapter, as amended by chapter eighty-four of the public laws of eighteen hundred and ninety-five, is hereby amended by striking out from the forty-eighth to the fifty-eighth lines thereof, inclusive, the following words, "if the board of railroad commissioners, after hearing the petitions, shall, subject to the provisions of section nine, approve the proposed location, and find that public convenience requires the construction of such road, it shall endorse its approval on the petition, and the corporation may then proceed with the construction of such road, provided, that they first file with the clerk of the court of county commissioners of the county in which said street railway is to be located, a copy of the location and plan aforesaid, and another copy of the same with the board of railroad commissioners," and inserting in place thereof the following; 'at such hearing any party claiming to be interested may appear in person or by counsel and such appearance shall be entered of record. The board of railroad commissioners, after hearing the petition, shall, if they approve such location, subject to the provisions of section nine, then determine whether public convenience requires the construction of such road, and make a certificate of such determination in writing, which certificate shall be filed with their clerk within thirty days after such hearing. Within five days after the filing of such certificate with him, said clerk shall notify all who have become parties of record as aforesaid, or their counsel, of such determination, by sending to each such party or their counsel by mail a certified copy of such certificates so filed with him. Any party of record who is dissatisfied with such determination may appeal therefrom, at any time within fifteen days from the date of filing such certificates, to the supreme judicial court next to be holden in any county where any part of said railway is located, more than thirty days from the date of filing said certificate with said clerk as aforesaid, excluding the day of the commencement of the session of said court. An appeal shall lie by any interested party from the decision of the board of railroad commissioners, in any case heard prior to the passage of this act, provided such appeal is taken at any time within three months from the time when this act goes into effect. The appellant shall serve written notice of such appeal upon said board of railroad commis-

Section 6,
as amended
by chapter
84, laws 1895,
amended.

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sioners, fourteen days, at least, before the session of said court, and shall at the first term file a complaint, setting forth substantially the facts of the case. Upon the entry of said appeal, the court shall appoint a committee consisting of three justices of the supreme judicial court, of whom the presiding justice may, by consent of parties, be one, provided, however, that one such justice may be mutually agreed upon and appointed as such committee, by the parties to the appeal. Said committee shall appoint a day for a hearing upon said appeal, and the appellants shall give such notice thereof as said committee deem reasonable and proper, in order that all persons interested may have opportunity to appear and object thereto. Said committee, after such hearing, shall determine whether public convenience requires the construction of such road. The decision of the committee, or a majority thereof if three are appointed, when filed in court, shall be final and conclusive upon all parties without further action of the court, and such decision shall forthwith be certified to the board of railroad commissioners. The compensation of the committee shall be paid by the parties and costs taxed as the court may order. If the board of railroad commissioners find that public convenience requires the construction of said road and no appeal therefrom shall have been taken, or if a committee appointed by the supreme judicial court, as aforesaid, shall, on appeal, certify to said railroad commissioners that the public convenience requires the construction of said road, then, in either of said cases, the corporation may then proceed with the construction of said road, provided that they first file with the clerk of county commissioners of the county in which said street railroad is to be located, a copy of the location and plan aforesaid, and another copy of the same with the board of railroad commissioners.' Said section is further amended by adding after the word "obtained" in the sixty-fourth line thereof, the following: 'but no such permission shall be necessary where such railways desire to cross public bridges already erected, but the authority to determine whether such crossing shall be permitted shall rest with the municipal officers of the cities or towns liable for the repair of such bridges, respectively, who may impose such conditions and terms upon railways desiring to cross the same as to them may seem expedient. In case any county is liable for the repair of a bridge, the county commissioners of such county shall have authority in the premises.' Said section is further amended by striking out

—further
amended.

from the sixty-fifth line of said section, the words, "paved or macadamized." Said section is further amended by adding thereto the following words; 'without the permission of the mayor and aldermen thereof, unless it shall be otherwise determined by a committee of judges of the supreme judicial court, on appeal, as hereinbefore provided for appeals from the decisions of the board of railroad commissioners, and such appeal may be taken by any party interested, including an existing street railroad claiming to be injuriously affected by such location, to the supreme judicial court, substantially in the manner and with the effect as hereinbefore provided.' So that said section as amended, shall read as follows:

—further amended.

'Section 6. Every corporation organized under the foregoing provisions before commencing the construction of its road, shall present to the railroad commissioners a petition for approval of location, defining its courses, distances and boundaries, accompanied with a map of the proposed route on an appropriate scale with the written approval of the proposed route and location as to streets, roads or ways of the municipal officers of the cities and towns in which said railway is to be constructed in whole or in part, and with a report and estimate prepared by a skillful engineer. If the municipal officers upon a written application therefor, neglect for thirty days to approve a route and location as to streets, roads or ways, or if they refuse to approve such a route and location, or if such route and location approved by them is not accepted by the corporation, in either case, said corporation may appeal to the next term of the supreme judicial court to be held in any county where any part of said railway is located, more than thirty days from the expiration of said thirty days, or from the date of such refusal, or from the approval of a location that is not accepted by the corporation, or otherwise, as the case may be, excluding the day of the commencement of the session of said court. If said railway is located in two or more counties, the supreme judicial court in either county shall have jurisdiction of any such appellate proceedings. The appellants shall serve written notice of such appeal upon said municipal officers fourteen days, at least, before the session of said court, and shall at the first term file a complaint setting forth substantially the facts of the case. If the appeal is then entered, and not afterwards, the court shall appoint a committee of three disinterested persons who shall be sworn and if one of them dies, declines or becomes interested,

Petition for approval of location shall be presented to railroad commissioners.

—petition must contain approval of route by municipal officers.

—if approval falls from any cause, appeal may be taken to supreme judicial court.

—proceedings upon appeal.

—court shall appoint committee who shall view route and location and report to court.

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—certificate shall be sent to railroad commissioners.

—corporation may make new application to municipal officers for approval.

—notice and hearing.

—if location is approved, commissioners shall make certificate of such determination.

—notice shall be given all interested parties.

—appeal may be taken to supreme judicial court.

—commissioners shall be notified of appeal.

the court may appoint some suitable person in his place, and they shall give such notice as the court has ordered, view the proposed route or routes, and location or locations, and make their report at the next term of the court after their appointment, defining therein the route and location as to streets or ways as determined by them, which after acceptance and entry of judgment thereon, shall forthwith be certified to the railroad commissioners and received by them in lieu of the approval of the municipal officers. Costs may be taxed and allowed as the court may order. A failure to appeal shall not bar the corporation from making a new application to the municipal officers. Said commissioners shall, upon presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said commissioners deem reasonable and proper, in order that all persons interested may have an opportunity to appear and object thereto. At such hearing any party claiming to be interested may appear in person or by counsel and such appearance shall be entered of record. The board of railroad commissioners, after hearing the petition, shall, if they approve such location, subject to the provisions of section nine, then determine whether public convenience requires the construction of such road, and make a certificate of such determination in writing, which certificate shall be filed with their clerk within thirty days after such hearing. Within five days after the filing of such certificate with him, said clerk shall notify all who have become parties of record as aforesaid or their counsel of such determination, by sending to each such party or their counsel, by mail, a certified copy of such certificate so filed with him. Any party of record who is dissatisfied with such determination may appeal therefrom, at any time within fifteen days from the date of filing such certificate, to the supreme judicial court next to be holden in any county where any part of said railway is located, more than thirty days from the date of filing said certificate with said clerk as aforesaid, excluding the day of the commencement of the session of said court. An appeal shall lie by any interested party from the decision of the board of railroad commissioners, in any case heard prior to the passage of this act, provided such appeal is taken at any time within three months from the time when this act goes into effect. The appellant shall serve written notice of such appeal upon said board of railroad commissioners, fourteen days, at least, before the session of said court, and shall at the first term file a complaint, setting

forth substantially the facts of the case. Upon the entry of said appeal, the court shall appoint a committee consisting of three justices of the supreme judicial court, of whom the presiding justice may, by consent of parties, be one, provided, however, that one such justice may be mutually agreed upon and appointed as such committee, by the parties to the appeal. Said committee shall appoint a day for a hearing upon said appeal, and the appellants shall give such notice thereof as said committee deem reasonable and proper, in order that all persons interested may have opportunity to appear and object thereto. Said committee, after such hearing, shall determine whether public convenience requires the construction of such road. The decision of the committee, or a majority thereof if three are appointed, when filed in court, shall be final and conclusive upon all parties without further action of the court, and such decision shall forthwith be certified to the board of railroad commissioners. The compensation of the committee shall be paid by the parties, and costs taxed as the court may order. If the board of railroad commissioners find that public convenience requires the construction of said road and no appeal therefrom shall have been taken, or if a committee appointed by the supreme judicial court, as aforesaid, shall on appeal certify to said railroad commissioners that the public convenience requires the construction of said road, then, in either of said cases, the corporation may then proceed with the construction of said road, provided that they first file with the clerk of county commissioners of the county in which said street railroad is to be located, a copy of the location and plan aforesaid, and another copy of the same with the board of railroad commissioners. Any extension of, addition to or variation from the location by any street railway organized under the provisions of this act may be made in accordance with, and subject to the limitations of the foregoing provisions, provided, that no railway shall be located across tide waters, where vessels can navigate, without special permission of the legislature first obtained. But* no such permission shall be necessary where such railways desire to cross public bridges already erected, but the authority to determine whether such crossing shall be permitted shall rest with the municipal officers of the cities or towns liable for the repair of such bridges, respectively, who may impose such conditions and terms upon railways desiring to cross the same as to them may seem expedient. In case any county is liable for the

—court shall appoint committee to hear parties.

—decision of committee shall be final.

—when corporation may proceed with construction of road.

—no railway may cross tide waters without permission of legislature.

—bridges already erected, may be crossed by permission of municipal officers.

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—no road can be located in any city without permission of mayor and aldermen unless on appeal.

repair of a bridge, the county commissioners of such county shall have authority in the premises. But no road shall be located under this act, over any street in any city in this state, without the permission of the mayor and aldermen thereof, unless it shall be otherwise determined by a committee of judges of the supreme judicial court, on appeal, as hereinbefore provided for appeals from the decisions of the board of railroad commissioners, and such appeal may be taken by any party interested, including an existing street railroad claiming to be injuriously affected by such location, to the supreme judicial court, substantially in the manner and with the effect as hereinbefore provided.'

Section 40, amended.

Sect. 3. Section ten of said chapter is hereby amended by inserting after the words "one hundred and twenty-six" in the eighth line of said section the words 'one hundred and thirty-five, one hundred and thirty-six, as amended, one hundred and thirty-seven, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty' so that said section, as amended, shall read as follows:

Certain provisions of the R. S., made applicable.

'Section 10. So far as applicable the provisions of sections seventeen, nineteen, twenty, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-six, thirty-seven, thirty-eight, thirty-nine, fifty-four, fifty-five, fifty-six, fifty-seven, sixty-six, sixty-seven, sixty-eight, one hundred and fourteen, one hundred and fifteen, one hundred and sixteen, one hundred and seventeen, one hundred and eighteen, one hundred and twenty-six, one hundred and thirty-five, one hundred and thirty-six, as amended, one hundred and thirty-seven, one hundred and thirty-eight, one hundred and thirty-nine, one hundred and forty of chapter fifty-one of the revised statutes, shall apply to street railways.'

Any street railroad company may maintain hotels, etc.

Sect. 4. Any street railroad corporation, organized under the general laws of said state, or under a special charter, may erect and maintain hotels, cottages, places of amusement and pleasure grounds along its route, and for that purpose may purchase and hold real estate and personal property necessary or convenient therefor, provided that the right of taking lands or other property shall not extend to property to be used for such purposes, and such street railroad corporations may purchase and hold shares of the capital stock of any other corporation engaged in the business of owning, leasing, maintaining or

—may hold real estate.

operating such hotels, cottages, places of amusement and pleasure grounds.

Sect. 5. Any street railroad corporation organized under a special legislative act, may be authorized to extend, construct, maintain and operate its road to, into and through adjoining cities and towns, other than and in addition to those named in its charter, by compliance with and subject to the provisions of section six of said chapter two hundred and sixty-eight of the public laws of eighteen hundred and ninety-three, as amended by this act. Such corporations shall, in addition to their chartered rights have all the rights and powers conferred from time to time by general laws upon street railroad corporations, subject to the conditions, limitations and restrictions thereby imposed; but no corporation shall have the right to run over the tracks of another street railroad, without legislative consent, heretofore or hereafter granted, and the right of any connecting street railroad company specially conferred upon it by its charter shall be preserved unimpaired.

Additional powers conferred upon corporations organized under special laws.

—such corporations shall have all the powers conferred by general laws upon street railroads.

Sect. 6. Any street railroad corporation may issue bonds in accordance with the provisions of the general law for any lawful purpose, and secure the same by mortgage of its road, franchises and property.

Any railroad may issue bonds and mortgage property.

Sect. 7. Section two of chapter eighty-four of the public laws of the year eighteen hundred and ninety-five is hereby repealed.

Section 2, chapter 84, laws 1895, repealed.

Approved March 22, 1897.

Chapter 250.

An Act in relation to Suits for Taxes.

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

The state treasurer, in the name of the state, and the assessors of cities, towns and plantations, in the name of the city, town or plantation, may bring an action of debt within two years from the date of assessment, to collect unpaid taxes with interest and charges thereon, in accordance with the provisions of sections seven and eight of chapter sixty-five of the public laws of eighteen hundred and ninety-five. The deed given under section seven to be deposited with the state treasurer in case of suits by the state, and in other cases with the treasurer of the city, town or plantation bringing the suit.

State treasurer and assessors may bring action to recover taxes.

—where deeds shall be deposited.

Approved March 23, 1897.