

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE

1899.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
February 18, 1840, and March 16, 1842.

AUGUSTA
KENNEBEC JOURNAL PRINT
1899.

PUBLIC LAWS

OF THE

STATE OF MAINE.

1899.

Chapter 119.

An Act to amend sections three and six of Chapter two hundred and sixty-eight of the Public Laws of eighteen hundred and ninety-three, as amended by Chapter eighty-four of the Public Laws of eighteen hundred and ninety-five and Chapter two hundred and forty-nine of the Public Laws of eighteen hundred and ninety-seven, relating to the organization and control of Street Railroads.

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

Section 1. The first eight lines of section three of chapter two hundred and sixty-eight of the public laws of eighteen hundred and ninety-three, is hereby amended by striking out all of the first sentence of said section, and inserting the following: 'Said directors shall present to the board of railroad commissioners a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The board of railroad commissioners shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said board deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. At such hearing any party claiming to be interested may appear in person or by counsel and such appearance shall be entered of record. If the board of railroad commissioners, after notice and hearing the parties, finds that all the provisions of one and two have been complied with, and that public convenience requires the construction of such railroad, said board shall endorse upon said articles a certificate of such facts and the approval of the board 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

Section 3,
chapter 268,
public laws
1893,
amended.

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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,' so that said section, as amended, shall read as follows:

Approval of
articles by
railroad
commis-
sioners.

—notice and
hearing.

'Section 3. Said directors shall present to the board of railroad commissioners a petition for approval of said articles of association, accompanied with a map of the proposed route on an appropriate scale. The board of railroad commissioners shall, on presentation of such petition, appoint a day for a hearing thereon, and the petitioners shall give such notice thereof as said board deems reasonable and proper, in order that all persons interested may have an opportunity to appear and be heard thereon. At such hearing any party claiming to be interested may appear in person or by counsel and such appearance shall be entered of record. If the board of railroad commissioners, after notice and hearing the parties, finds that all the provisions of sections one and two have been complied with, and that public convenience requires the construction of such railroad, said board shall endorse upon said articles a certificate of such facts and the approval of the board 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 cer-

tificate, 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.'

The secretary of state, shall, upon payment of twenty dollars to the state treasurer, cause the same with the endorsement thereon to be recorded, and shall issue a certificate in the following form:

When recorded, secretary of state shall issue a certificate.

Be it known that whereas (here the names of the subscribers to the articles of the association should be inserted) have associated themselves together with the intention of forming a corporation under the name of (here insert the name of the corporation) for the purpose of building and operating a street railway in (here insert a description of the road contained in the articles of association) and have complied with the statutes of the state in such cases made and provided. Now therefore, I (here insert the name of the secretary of the state of Maine) hereby certify that said (names of subscribers) their associates and successors, are legally organized and established as an exist-

Form of certificate.

CHAP. 119 ing corporation under the name of (name of corporation) with the powers, rights and privileges and subject to the limitations, duties and restrictions which by law appertain thereto.

Witness my official signature thereunto subscribed and the seal of the state of Maine hereunto affixed this day of
(day, month and year inserted.)

To be ev-
idence of
establish-
ment of
corporation.

—to be
recorded.

Section 6,
amended.

The secretary of state shall sign the same and cause the seal of the state to be affixed, and such certificate shall be conclusive evidence of the organization and establishment of such corporation at the date thereof. The secretary of state shall also cause a record of such certificate to be made, and a certified copy of such record may with like effect as the original certificate be given in evidence to prove the existence of such a corporation.'

Section 2. Section six of chapter two hundred and sixty-eight of the public laws of eighteen hundred and ninety-three, as amended by chapter eighty-four of the public laws of eighteen hundred and ninety-five and chapter two hundred and forty-nine of the public laws of eighteen hundred and ninety-seven is hereby amended by striking out in the fourth line thereof, the words "defining its courses, distances and boundaries," and by striking out in the fifth line the words "map" and "route" and insert in place thereof the words 'plan' and 'line' and insert after the word "scale" in the sixth line the words 'defining its courses, distances and boundaries,' and also by striking out from the fifty-first and fifty-second lines the following words, "then determine whether public convenience requires the construction of such road, and," also by striking out all after the word "writing" in the fifty-third line to the word "if" in the ninetieth line, also by striking out all the words between the word "commissioners" in the ninety-first and the word "the" in the ninety-sixth line, and insert the following words, 'approve said location,' so that said section, as amended, shall read as follows:

Petition
for approval
of location.

'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, accompanied with a plan of the proposed line on an appropriate scale, defining its courses, distances and boundaries, and 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 skilled engineer. If the municipal officers upon a written application therefor, neglect for thirty days to approve a route

—may be
taken to
supreme
judicial

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, 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, make a certificate of such determination in writing. If the board of railroad commissioners approve said location, 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

court for approval, if for any cause, location fails.

—proceedings.

—certificate of committee, shall be certified to railroad commissioners.

—endorsement of location by railroad commissioners.

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—how changes may be made in location.

—shall not cross tide waters except by permission of the legislature.

—crossings of public bridges, shall be by permission of municipal officers.

—when county is liable for repair of bridge, county commissioners shall have authority.

—no road shall be located in any city, without permission of mayor and aldermen.

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 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.'

Approved March 17, 1899.

Chapter 120.

An Act to amend Chapter eighty-seven of the Revised Statutes, as amended by Chapter two hundred and eighteen of the Public Laws of eighteen hundred and ninety-three and Chapter one hundred and thirty-three of the Public Laws of eighteen hundred and ninety-five, relating to the limitations of actions against Executors and Administrators.

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

Section 1. Section eleven of chapter eighty-seven of the revised statutes is hereby repealed.

Section 2. Section twelve of said chapter eighty-seven as amended by chapter one hundred and thirty-three of the public laws of eighteen hundred and ninety-five is hereby amended so as to read as follows:

'Section 12. No action shall be maintained against executors or administrators on claims against the estate, except as

Section 11, chapter 87, R. S. repealed.

Section 12, as amended by chapter 133, laws 1895, further amended.

Actions against ex-