

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1836.**

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*AUGUSTA:*  
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1836.

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SIXTEENTH LEGISLATURE.

No. 22.

SENATE.

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STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT  
HUNDRED AND THIRTY-SIX.

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AN ACT defining certain rights and duties of  
Railroad Corporations.

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SECT. 1. *Be it enacted by the Senate and*  
*2 House of Representatives in Legislature as-*  
*3 ssembled, That Railroad Corporations, which*  
*4 have been, or may be granted, shall have the*  
*5 right to take and hold so much of the land, and*  
*6 other real estate of private persons, as may be*  
*7 necessary for the location, construction and con-*  
*8 venient operation of their Railroads; and they*  
*9 shall, also, have the right to take, remove, and*  
*10 use for the construction and repair of said Rail-*

11 roads and appurtenances, any earth, gravel, stone,  
12 timber, or other materials, on or from the land  
13 so taken. *Provided, however,* that said land  
14 so taken, shall not exceed four rods in width,  
15 except where greater width is necessary for the  
16 purpose of excavation or embankment;—*And*  
17 *provided also,* that in all cases, said Corpora-  
18 tion shall pay for such lands, estate or materials  
19 so taken and used, such price as they and the  
20 owner, or respective owners thereof may mutu-  
21 ally agree on; and in case said parties shall not  
22 otherwise agree, then said Corporations shall  
23 pay such damages as shall be ascertained and  
24 determined by the County Commissioners for  
25 the County where such land or other property  
26 may be situated, in the same manner, and under  
27 the same conditions and limitations, as are by  
28 law provided in the case of damages by laying  
29 out of highways. And the land so taken by  
30 said Corporation shall be held as lands taken  
31 and held for public highways. And no appli-  
32 cation to said Commissioners to estimate said  
33 damages shall be sustained, unless made within  
34 three years from the time of taking such land  
35 or other property; or when it has already been

36 taken, within one year from the time of passing  
37 this Act.

SECT. 2. *Be it further enacted,* That on ap-  
2 plication being made to the County Commis-  
3 sioners, as aforesaid, either by said Corpora-  
4 tions, or by the owner or owners of lands so ta-  
5 ken, it shall be the duty of said Corporations, if  
6 required by the owner or owners of such land,  
7 or other property so taken to give full and am-  
8 ple security, to the satisfaction of said Commis-  
9 sioners for all damages and costs, which may  
10 be finally ascertained, determined and awarded  
11 by said Commissioners for the land or other pro-  
12 perty so taken. And on the refusal or failure  
13 of said Corporations to give such security, all  
14 their right or authority to enter upon, or use  
15 said land or other property so taken, except for  
16 making surveys, shall be suspended and stayed  
17 until they shall give such security. But after  
18 the security is given, they may proceed to use  
19 said land or other property for the purpose for  
20 which it was taken.

SECT. 3. *Be it further enacted,* That when  
2 any Railroad Corporation shall take any land,

3 or other estate, as aforesaid, of any infant, per-  
4 son *non compos mentis*, or femme covert, whose  
5 husband is under guardianship, the guardian of  
6 such infant, or person non compos mentis, and  
7 such femme covert, with the guardian of her  
8 husband shall have full power and authority  
9 to agree and settle with said Corporation, for  
10 all damages, or claims for damages, by reason  
11 of taking such land and estate aforesaid, and  
12 give good and valid releases and discharges  
13 therefor.

SECT. 4. *Be it further enacted*, That said  
2 Corporations which have been or may be here-  
3 after established, may raise or lower any turn-  
4 pike, highway, or private way, when it may  
5 be necessary to allow their Railroad to pass  
6 over or under the same, and in such cases, said  
7 Corporation shall put said turnpike, high way,  
8 or private way, as soon as may be, in as good  
9 repair and condition as before said alterations  
10 shall have been made by said Corporations;  
11 and as soon as said alterations, and amend-  
12 ments are completed, said Corporations shall  
13 give notice in writing of the completion thereof,

14 to the proprietors of such turnpike, and to the  
15 selectmen of the towns where such highway,  
16 or private way is situated. And if said pro-  
17 prietors, or selectmen require further alterations  
18 and amendments of said turnpike, highway or  
19 private way, and give notice thereof in writing to  
20 said Corporations; and if the parties cannot agree  
21 what further alterations and amendments are  
22 necessary—either of said parties may apply to  
23 the County Commissioners of the County  
24 where such portion of the turnpike, highway,  
25 or private way is situated, at the next regular  
26 meeting of said Commissioners, after said no-  
27 tice to said Corporations, to determine what  
28 further amendments and alterations, if any,  
29 shall be made in said turnpike, high way, or  
30 private way—and the decision of said Commis-  
31 sioners shall be final, and the costs of such ap-  
32 plication shall be awarded in favor of the pre-  
33 vailing party. And if said Corporations shall  
34 unnecessarily or unreasonably neglect to make  
35 such alterations, or amendments, as said Com-  
36 missioners shall determine to be reasonable and  
37 proper, the said proprietors or selectmen shall

38 be entitled to their remedies in damages, by an  
39 action on the case, in any court proper to try  
40 the same. And no action shall be sustained  
41 against said Corporations, for damages, by said  
42 proprietors or selectmen, or the owner or  
43 owners of any private way, by reason of any  
44 obstruction thereto occasioned by said Railroad's  
45 crossing the same, unless brought within one  
46 year from the time said injury is occasioned.

SECT. 5. *Be it further enacted,* That if any  
2 Railroad Corporation, which has been, or may  
3 be established, shall be desirous of altering the  
4 course of any highway, where it is crossed by  
5 their Railroad, for the purpose of facilitating  
6 the crossing of the same, they may alter the  
7 same accordingly in such manner, as the Coun-  
8 ty Commissioners for the County where such  
9 way is situated may direct: *Provided,* the said  
10 Commissioners, after due notice to the select-  
11 men of the town, where such highway is situa-  
12 ted, shall be of opinion that such alteration will  
13 not essentially injure such said highway. And  
14 in case any Railroad Corporation shall, before  
15 commencing the work of raising or lowering any  
16 turnpike, highway or private way, as aforesaid,



17 or at any time previous to completing the same,  
18 be desirous of obtaining the approbation of said  
19 Commissioners, in respect to the mode of rais-  
20 ing, or lowering the same, the said Corporation  
21 may apply to said Commissioners, for this pur-  
22 pose, whose duty it shall be, after due notice to  
23 the parties interested, to direct the mode of per-  
24 forming said work; and their decision shall be  
25 final.

SECT. 6. *Be it further enacted,* That it shall  
2 be the duty of every Railroad Corporation to  
3 cause a bell to be placed on each locomotive en-  
4 gine, passing on their road, which shall be at  
5 least of the weight of thirty-five pounds, and the  
6 said bell shall be rung, at the distance of, at  
7 least, eighty rods from the place of crossing  
8 any turnpike, highway, or town way upon the  
9 same level with the road, and be kept ringing,  
10 until the said engine shall have passed said turn-  
11 pike or highway. And it shall be the duty of  
12 each rail road Corporation to cause boards to  
13 be placed and constantly maintained across each  
14 turnpike, highway, or town way, where it is  
15 crossed by the Railroad on the same level there-  
16 with, the said boards to be well supported by

17 posts or otherwise; and to be of such height as  
18 to be easily seen by travellers, without obstruct-  
19 ing the travel; and on each side of said boards,  
20 the following inscription shall be printed, in cap-  
21 ital letters, of, at least, the size of nine inches  
22 each:—*Railroad crossing; look out for the*  
23 *engine while the bell rings.*—And if the Se-  
24 lectmen of any town, wherein any turnpike,  
25 highway, or town way, so crossed, by any Rail-  
26 road, is situate, shall be of opinion, that the  
27 foregoing provision, is not a sufficient security  
28 to the public, in any particular cases, and that  
29 it is necessary for such security, that gates  
30 should be erected across the Railroad, and  
31 an agent should be stationed to open and close  
32 said gates, whenever any engine passes, the said  
33 selectmen may request in writing said Railroad  
34 Corporation to erect said gates, and station said  
35 agent as aforesaid; and in case said Railroad  
36 Corporation shall neglect or refuse so to do, the  
37 said Selectmen may apply to the County Com-  
38 missioners for their decision upon the reasonable-  
39 ness of such request. And if said Commission-  
40 ers, after due notice, and hearing the parties,

41 shall decide that the erection of said gates and  
42 providing said agent, is necessary for the securi-  
43 ty of the public, it shall be the duty of said Rail-  
44 road Corporation to comply with their decision.  
45 And in case said Commissioners shall be of  
46 opinion, that the establishment of said gates and  
47 agent is not required as aforesaid, the said Se-  
48 lectmen, shall be liable to pay all the costs of  
49 their application. But if the said application  
50 shall be sustained by said Commissioners, the  
51 costs thereof shall be paid by said Railroad Cor-  
52 poration.

SECT. 7. *Be it further enacted,* That if any  
2 Railroad Corporation shall, unreasonably neg-  
3 lect, or refuse to comply with any or either of the  
4 requirements of the preceding sections of this Act,  
5 they shall forfeit and pay to the use of the State,  
6 a sum not exceeding — hundred dollars, to be  
7 recovered by action or indictment in any court of  
8 competent jurisdiction. And if any agent sta-  
9 tioned as aforesaid, shall neglect or refuse to open  
10 or close said gates, for the safe passing of the en-  
11 gine on the Railroad, or the traveller on the  
12 turnpike, highway or town way, he shall forfeit  
13 and pay to the use of the State for every such

14 neglect or refusal, a sum not exceeding ———  
15 dollars, to be recovered as aforesaid; and the  
16 Railroad Corporation shall also be liable for all  
17 damages, sustained by any person in consequence  
18 of such neglect or refusal of any of their agents;  
19 or by any negligent and careless mismanagement  
20 of their engines, in an action on the case, by the  
21 person or persons sustaining such damages.

SECT. 8. *Be it further enacted,* That the  
2 shares in the capital stock in any Railroad cor-  
3 poration, may be transferred by conveyance in  
4 writing, recorded either by the Treasurer, in  
5 books to be kept in his office, or by an officer  
6 duly authorized for that purpose by the direc-  
7 tors, in books to be kept at such other place as  
8 they may appoint, within this State. And no  
9 conveyance of any such shares shall be valid to  
10 hold the same, against the legal claims of any  
11 other person or persons, than the grantor or  
12 grantors, or his or their executors or adminis-  
13 trators unless so recorded. And on the mak-  
14 ing of such transfer, the certificates of the shares  
15 transferred shall be given up, and cancelled.  
16 And it shall be the duty of every Railroad Cor-  
17 poration to cause a transcript of the record of

18 all transfers, not originally recorded on the  
19 books kept by the Treasurer, to be entered on  
20 the books of the said Treasurer within ten days  
21 from the date of the original record. And in  
22 case such transcript is not thus entered, the  
23 transfer shall not operate to the prejudice of any  
24 intervening claims.

SECT. 9. *Be it further enacted*, That all  
2 Acts, and parts of Acts inconsistent with the  
3 provisions of this Act be, and the same here-  
4 by are repealed.

**STATE OF MAINE.**

**In SENATE, Feb. 2, 1836.**

**ORDERED, That 500 copies of the foregoing Bill be printed for the use of the Legislature.**

**(Extract from the Journal.)**

**Attest, WILLIAM TRAFTON, *Secretary.***