

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1853.

---

**Augusta:**  
WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1853.

---

# STATE OF MAINE.

---

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND FIFTY-THREE.

---

## AN ACT concerning railroads.

---

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

SECTION 1. It shall be the duty of every railroad  
2 company in this State to establish rules and regula-  
3 tions for the running of its road, as soon as the same  
4 or any portion thereof is in operation, and fix the  
5 needful time tables thereof, with the times of arrival  
6 and departure of trains; and any engine driver, con-  
7 ductor, or other person having charge of any train, or  
8 of any locomotive engine, who shall run or cause to be  
9 run over such road any locomotive engine, passenger  
10 train, freight train, or gravel train; contrary to the

11 rules, regulations and time tables so established, shall  
12 be guilty of a misdemeanor.

SECT. 2. Any person so offending, shall be liable to  
2 punishment by fine not exceeding one thousand dol-  
3 lars, or imprisonment for a term not exceeding five  
4 years, or by both, at the discretion of the court before  
5 whom he shall be tried.

SECT. 3. The county attorney for each county is  
2 hereby directed to cause a prosecution to be instituted  
3 against every person, who shall be guilty of the offense  
4 described in the first section of this act, in case any  
5 accident shall occur therefrom.

SECT. 4. It shall be the duty of every railroad com-  
2 pany on whose road any such accident shall occur, to  
3 give immediate notice to the county attorney, whose  
4 duty it shall be to call forthwith upon some coroner  
5 of the county whose residence is near the place where  
6 such accident shall occur, to take an inquest upon  
7 view of the dead body or bodies of such persons as  
8 shall have come to their death by such accident, in the  
9 manner provided by the revised statutes of this State:  
10 *provided, however,* that if the county attorney shall  
11 reside more than ten miles from the place of such  
12 accident, said railroad company shall first call upon

13 some justice of the peace in the vicinity, to notify a  
14 coroner to hold such inquest, and then forthwith  
15 notify the county attorney as aforesaid, that he may be  
16 present at the hearing before said coroner.

SECT. 5. Any person in charge of a locomotive  
2 engine, or acting as the conductor of a car or train,  
3 or as brakeman, or as switchman in the employment  
4 of any company, who shall be intoxicated while so  
5 engaged on the railway, shall be deemed guilty of a  
6 misdemeanor, and liable to fine not exceeding one  
7 hundred dollars or imprisonment not exceeding six  
8 months, or both, at the discretion of the court before  
9 whom he may be tried.

SECT. 6. Any railroad corporation, after having taken  
2 land, for any portion of their road, may, if they find it  
3 expedient, vary the direction of the road, provided,  
4 they shall not thereby locate their road, or any part  
5 thereof, without the limits prescribed by their act of  
6 incorporation; and they shall, before the time required  
7 by law for completing their road, file the location of  
8 the different parts of the road, where such variations  
9 are made, with the county commissioners of the  
10 respective counties where said parts of the road so  
11 altered are situated.

SECT. 7. Railroads shall not be carried along any  
2 existing highway, but must cross the same in the line  
3 of the railway, unless leave be obtained from the town  
4 or city through which the same shall pass. And no  
5 railroad shall cross any county road, without the  
6 written assent of the County Commissioners thereto,  
7 which written assent shall determine and state the  
8 manner and conditions, upon which such crossing  
9 may be made; and shall be recorded in the County  
10 Commissioners' office. And before such determination  
11 is made, reasonable notice, of the time and place of  
12 hearing upon the same, shall be given to the Select-  
13 men of the town in which said crossing is proposed  
14 to be made. And no railroad shall cross any town  
15 road, or street of a city, without the written assent of  
16 the Selectmen of the town, or Mayor and Aldermen  
17 of the city, which written assent shall determine and  
18 state the manner and conditions upon which such  
19 crossing may be made; and shall be recorded in  
20 the County Commissioners' office. And every such  
21 crossing, made contrary to the foregoing provisions,  
22 shall be considered a nuisance, and liable to all the  
23 provisions of law relating to nuisances, and the Directors  
24 of the Company, making the same, shall be personally

25 liable therefor. And all fees of the Commissioners,  
26 for the services herein specified shall be paid by the  
27 Company.

SECT. 8. No railroad company shall enter upon, or  
2 use, any real estate, for the purposes of their road,  
3 except for making surveys, until the location of said  
4 road over said estate shall have been legally made,  
5 and filed in the office of the County Commissioners ;  
6 and when such location shall have been filed, the said  
7 Commissioners shall, before said company shall have  
8 any right to use said estate, for the purposes of said  
9 company, after giving at least fourteen days' notice to  
10 the owner, proceed to view and examine such location,  
11 and shall allow and appraise the same, and shall make  
12 such location, with their adjudication, a matter of  
13 record ; and shall further, if requested by the owner,  
14 order said company to give security for damages,  
15 according to the provisions of the sixth section of the  
16 eighty-first chapter of the revised statutes, and such  
17 security shall be given accordingly. And for all acts  
18 done by any company, its servants, agents, or con-  
19 tractors, contrary to the provisions of this section, the  
20 directors of such company shall be personally liable,  
21 both jointly and severally, to the same extent, and

22 in the same manner as if said acts were performed by  
23 themselves ; and an action therefor, against all or any  
24 number of said directors shall be maintained in any  
25 court of competent jurisdiction.

SECT. 9. No person who has suffered damages by  
2 the location of any railroad, and is entitled to com-  
3 pensation therefor, or who may hereafter suffer damages  
4 by any such location and shall be entitled to such  
5 compensation, shall be barred of his claim, nor shall  
6 any rights whatever be acquired against him, if no  
7 proceedings shall have been, or shall be, instituted  
8 under the provisions of chapter eighty-one of the  
9 revised statutes to ascertain and determine such dam-  
10 ages, within the time specified in the fourth section  
11 of said chapter, or as is hereafter provided; but any  
12 such person shall be entitled to his suit at law as in  
13 cases of trespass, or disseizin; and may also have a  
14 further remedy as is hereinafter provided.

SECT. 10. All railroad companies shall be liable for  
2 trespasses upon, and injuries to, lands adjoining to, or  
3 in the vicinity of, their respective roads, by any con-  
4 tractor, or person in the employ of any contractor, or  
5 other person in the employ of any such company, and  
6 whether such injury is direct or consequential, in an



7 action appropriate to such trespass, or injury, in the  
8 same manner, and to the same extent, as if such tres-  
9 pass or injury were done, or occasioned, by the direct  
10 and specific order of said company; but nothing herein  
11 contained shall be construed to bar, or affect, any  
12 remedy, or right of action, against the person by whom  
13 such trespass, or injury, was done or occasioned.

SECT. 11. In all cases where damages have been  
2 heretofore ascertained and determined by the county  
3 commissioners against any railroad company, or where  
4 damages may hereafter be ascertained and determined  
5 against any such company as aforesaid, and where  
6 the proceedings in any such case shall have been  
7 closed before said commisioners, if the amount thus  
8 ascertained shall not be paid, or tendered, by such  
9 company, within thirty days after the same shall have  
10 been demanded of said company, the person to whom  
11 damages may have been awarded as aforesaid, or who  
12 may be legally entitled to receive the same, may file a  
13 bill in equity before the supreme judicial court in the  
14 county where such damages were ascertained and  
15 determined, in term time, or in vacation, setting forth  
16 the facts in the case, and praying for an injunction  
17 against said company, its servants, agents, grantees,

18 lessees, and all other persons whatsoever; and any  
19 judge of said court may, after summary notice to said  
20 company, and to such other person or persons as said  
21 judge may see fit to order notice upon, on proof of the  
22 facts aforesaid, and without requiring any bond of the  
23 complainant, issue a writ of injunction, according to  
24 the course of equity proceedings, prohibiting and  
25 enjoining said company, its servants, agents, grantees,  
26 lessees, and all other persons whatsoever, from using  
27 or occupying any lands for which the damages have  
28 not been paid as aforesaid, for the purposes of said  
29 road, or for any other purposes whatever, until such  
30 damages and all interest and costs, and all the costs  
31 of such injunction shall have been fully paid and  
32 satisfied. And said bill being duly entered in court,  
33 and continued for one term thereof after such injunc-  
34 tion shall have been decreed, and duly served upon  
35 said company and all others named as defendants in  
36 said bill, the said court may, at the term thereof to  
37 which said bill shall have been continued as aforesaid,  
38 if said damages and costs shall not then have been  
39 paid, make said injunction absolute. And all rights  
40 whatever in any lands for which the damages have  
41 not been paid, and concerning which such proceedings

42 shall have been had, and all rights of property in and  
43 to the superstructure of said road, and other erections,  
44 over and upon said lands, and the materials composing  
45 the same, in any person, or persons, other than the  
46 owner of said lands, shall thenceforth cease, and the  
47 owner of such lands may maintain any appropriate  
48 action at law for, or in reference thereto, in the same  
49 manner, and to the same extent, as in cases of trespass,  
50 or disseizin. And nothing herein contained shall bar,  
51 or in any manner limit, any legal rights which any  
52 owner of lands might have, if this act had not been  
53 passed.

SECT. 12. If any railroad company, its servants,  
2 agents, grantees, lessees, or other persons, shall, after  
3 service of such injunction, either preliminary or abso-  
4 lute, continue to use and occupy the lands aforesaid,  
5 for any purpose, the said court may, at any term  
6 thereof, on motion of the complainants in any such  
7 bill, order the directors of any such company, or any  
8 other person by or under whom said lands may have  
9 been so used and occupied, to show cause, at a time  
10 to be fixed by said court, why a decree should not be  
11 entered and execution issued against them, or either  
12 of them, and their individual goods and estate, for the

13 amount of all damages, interest, and costs as aforesaid,  
14 and for such additional damages and costs as said  
15 court may order and decree for breach of the injunc-  
16 tion as aforesaid; and upon service and return of such  
17 order the court may enter such decree for damages and  
18 costs as may be a just and equitable remuneration to  
19 the complainants, against all or any of such directors  
20 and other person or persons, or either of them, as their  
21 individual or official action or neglect, and the nature  
22 of the case may justify and require, and issue execu-  
23 tion therefor, against any or all such persons, either  
24 jointly or severally. And nothing herein contained  
25 shall be construed to limit or affect the right of said  
26 court to proceed against any person or persons for  
27 breach of any such injunction, as in other cases.

SECT. 13. Any person not the owner of lands taken  
2 by any railroad company under the provisions of its  
3 charter, and of the eighty-first chapter of the revised  
4 statutes, but who may have a direct interest in the  
5 use or occupation of any such lands, for any purpose  
6 or to any extent, shall be entitled to all the remedies  
7 provided for the owner of lands taken as aforesaid.

SECT. 14. Whenever any railroad company has  
2 been, or may hereafter be, required by the award of

3 the County Commissioners in their estimate of dam-  
4 ages, to do or perform any act, or to omit the doing  
5 or performing any act, and the same shall not be done  
6 within a reasonable time after notice and request, or  
7 shall hereafter be done contrary to said award, as the  
8 case may be, the person suffering damages as afore-  
9 said shall be entitled to all the remedies hereinbefore  
10 provided.

SECT. 15. In all cases where no proceedings have  
2 been, or shall be, instituted within the time limited in  
3 chapter eighty-one of the revised statutes, or as is  
4 hereafter provided, to ascertain and determine the  
5 damages as aforesaid, any person entitled thereto may  
6 have the remedy by injunction provided in the third  
7 section of this act; and the court may, if the same  
8 is prayed for in said bill, proceed to ascertain the  
9 damages which such person has suffered by the acts  
10 and doings of any such railroad company, or any other  
11 person or persons defendants in said bill, and to make  
12 a decree, and issue execution accordingly. And any  
13 such complainant shall be further entitled to all the  
14 remedies for breach of any injunction hereinbefore  
15 provided.

SECT. 16. In all cases where the time limited in the

2 fourth section of chapter eighty-one of the revised  
3 statutes shall have expired before this act takes effect,  
4 or within six months thereafter, and no proceedings  
5 shall have been commenced under said act to ascertain  
6 and determine the damages therein referred to, one  
7 year from and after the day when this act shall take  
8 effect as aforesaid, shall be allowed for that purpose.

SECT. 17. In all cases where proceedings have been,  
2 or may hereafter be, instituted for the recovery  
3 of damages, under the provisions of the eighty-first  
4 chapter of the Revised Statutes, within the time  
5 specified in the fourth section thereof, which proceed-  
6 ings have failed, or may hereafter fail, of judgment,  
7 for any error or informality, or other cause not affecting  
8 the merits of the application on which such pro-  
9 ceedings are founded, one year from and after the  
10 approval of this act, for cases occurring before such  
11 approval, and one year from and after such failure, for  
12 cases that may hereafter occur, shall be allowed,  
13 wherein to institute new proceedings. And a judgment  
14 obtained upon any such new proceedings shall have  
15 all the incidents provided by law for proceedings  
16 instituted within the time specified in said fourth  
17 section.

SECT. 18. Where County Commissioners shall make  
2 their report upon any question of damages occasioned  
3 by taking lands for the purposes of a railroad, and  
4 the same shall be duly recorded at a regular term of  
5 the Court, it shall be the duty of the Clerk of such  
6 Court forthwith to notify all parties interested therein  
7 that such report has been made and recorded ; which  
8 notice shall be given to parties within the State, whose  
9 names and places of residence are known, by service of  
10 such notice upon them, or their attorney of record,  
11 by an officer ; and upon parties living without the  
12 State, and having an attorney of record, by service  
13 upon such attorney ; and in all other cases by causing  
14 such notice to be inserted three weeks successively in  
15 some newspaper published within the County. And  
16 the expense of such notice shall be added to the costs  
17 of the proceedings in the case, and paid accordingly.  
18 And if no petition for redress shall be presented  
19 within thirty days after such notice, the proceedings  
20 in such case shall be closed.

SECT. 19. Where a report has heretofore been made,  
2 or shall hereafter be made, by County Commissioners,  
3 on an application to determine the damages occasioned  
4 by taking lands for railroad purposes, under the

5 provisions of law, and the proceedings on such appli-  
6 cations have been, or may be closed, a deposit by any  
7 railroad company, with the Clerk of said Court, of the  
8 amount allowed for said damages with interest there-  
9 upon from the time of record of such report, and of  
10 such costs as may be allowed thereby, with all other  
11 legal costs, shall be a full satisfaction of such claim  
12 for damages: *provided*, no demand shall have been  
13 previously made therefor, and payment refused or  
14 neglected.

SECT. 20. Service of any bill, subpoena, notice,  
2 order, injunction, or decree, provided for in this act,  
3 may be made upon the president of any company, and  
4 if there be no president, upon any other officer thereof,  
5 and if there be no officers, then upon any stockholder.  
6 And service of any writ of injunction issued under  
7 the provisions of this act upon any person, whether a  
8 party to the bill or not, shall be binding upon him,  
9 and he shall be liable to all the consequences and  
10 penalties herein provided, for breach of such injunction.

SECT. 21. The annual reports of railroad corpora-  
2 tions required to be made to the Secretary of State as  
3 provided in chapter 145 of the statutes of 1849, of the  
4 operations of the year ending on the first of January,



5 shall be made within the month of January in each  
6 year, instead of the time now required by law. It  
7 shall be the duty of the secretary of State to prepare  
8 the necessary printed blank forms for such return, and  
9 forward a suitable number of copies thereof to the  
10 several railroad companies in the month of November  
11 in each year. If any railroad company shall willfully  
12 refuse or neglect to make such return, they shall be  
13 liable to a fine of one thousand dollars to the use of  
14 any party suing for the same.

SECT. 22. At all railroad crossings, where notice is  
2 now given of the approach of any locomotive or  
3 railroad train by the ringing of a bell, the steam  
4 whistle may be substituted therefor.

SECT. 23. This act shall take effect and be in  
2 force in thirty days from and after its signature by the  
3 governor.

STATE OF MAINE.

---

IN SENATE, February 12, 1853.

ORDERED, That 500 copies of the Bill concerning Railroads, be printed for the use of the Legislature.

LOUIS O. COWAN, *Secretary.*