

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

SIEVENS & SAYWARD, PRINTERS TO THE STATE.

1860.

THIRTY-NINTH LEGISLATURE.

HOUSE.

No. 4.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND SIXTY.

AN ACT additional to an act entitled “An act to secure
the safety and convenience of travelers on Railroads,”
passed A. D. 1858.

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

SECTION 1. The commissioners, authorized by the
2 act to which this is additional, shall annually, com-
3 mencing in the month of June, carefully examine the
4 railroads in this state, the rolling stock thereof, and
5 all bridges, viaducts and culverts over which passen-
6 ger trains pass, and at other times when the public
7 security requires an examination; and if they find any

8 defect or defects therein, which in their opinion would
9 render the passage of such trains hazardous, either of
10 said commissioners shall forthwith notify the superin-
11 tendent, president or any director of, or any lessee,
12 trustee, or person other than the corporation running
13 trains on such road, of such defect or defects, and re-
14 quire the party notified to show cause forthwith why
15 the same should not be repaired. If the party notified
16 neglects to appear at the time and place required, or
17 appearing, does not show cause to the satisfaction of
18 the board of commissioners why the defect or defects
19 should not be repaired, said board shall issue such
20 order in writing, as they may deem necessary for the
21 safety of the public ; and shall forthwith serve a copy
22 thereof upon the person notified, or present at the
23 hearing, acting in behalf of the corporation, lessee,
24 trustee or persons running trains on said road.

SEC. 2. Awards or orders, made by said board un-
2 der the first section of this act, shall bind and conclude
3 railroad corporations and all persons running passen-
4 ger trains on any railroad until set aside by the su-
5 preme judicial court, under section third of this act.

SEC. 3. If any railroad corporation, lessee, trustee
2 or other person running passenger trains on any rail-
3 road shall neglect to comply with any order of said

4 commissioners made according to the first section of
5 this act, and shall, after being served with a copy of
6 such order, transport a passenger in any car, on or
7 over any bridge, culvert or place determined by said
8 commissioners to be defective and hazardous, contrary
9 to the order aforesaid, either of said commissioners
10 shall file an information in the name of the state, with
11 any judge of the supreme judicial court in session or
12 vacation, praying for an injunction upon the corpora-
13 tion, lessee, trustee or person notified as aforesaid,
14 until said order is complied with, or the court upon a
15 hearing, dissolves said injunction or sets aside such
16 order, and the judge aforesaid shall grant said injunc-
17 tion and enforce the same, and thereupon said commis-
18 sioners shall notify the attorney general thereof, who
19 shall afterwards conduct all proceedings thereon in
20 said court.

SEC. 4. At the first term of the supreme judicial
2 court in the county where said injunction has been
3 granted, on motion of the attorney general or the party
4 enjoined, the parties shall be heard, and the court may
5 remove the injunction if they deem it consistent with
6 the public safety, upon payment, by the defendant, to
7 the state, of such sum as costs, as they consider just
8 and equitable.

SEC. 5. The railroad commissioners shall annually, 2 in the month of December, report to the governor their 3 official doings, together with such facts in relation to 4 railroads within the state, as he may require, or they 5 may consider of public interest; and to this end rail- 6 road corporations, trustees or lessees are required to 7 give said commissioners such information as they may 8 from time to time demand.

SEC. 6. For the services required by the foregoing 2 sections of this act, said commissioners shall receive 3 from the state, such compensation as the governor and 4 council may determine to be reasonable.

SEC. 7. When the railroad commissioners are applied 2 to by a railroad corporation, or its lessees or trustees 3 authorized by law to connect with another road to 4 determine and award in relation to the rates at which 5 passengers and merchandise coming from one road 6 shall be transported over the other, or the division of 7 receipts resulting from transportation over roads so 8 connecting, as prescribed in the third section of the 9 act to which this is additional; said commissioners if 10 so requested in the application, are hereby authorized 11 and required to determine and award the rates for 12 transporting passengers, merchandise or cars delivered 13 by a connecting to a receiving road, over such receiv-

14 ing road, and over any other road on which such
15 receiving road shall have become a common carrier by
16 contract or otherwise, and also the rates for transport-
17 ing passengers, merchandise or cars, coming upon,
18 over, or delivered to said receiving road at any station
19 where it usually receives passengers or merchandise,
20 as well upon its own as on any other road over which
21 it is a carrier as aforesaid, and going to and upon the
22 road making the application. And they are also au-
23 thorized to require either party in the application to
24 give security to the other for the payment of balances
25 for such transportation on such conditions as they deem
26 equitable; and they may also determine that their
27 award may be suspended after the acceptance thereof,
28 for any non-performance of the conditions thereof at
29 the election of the party injured by such non-per-
30 formance.

SEC. 8. Either of the commissioners to whom an
2 application is delivered, under this act or the act to
3 which it is additional, shall endorse thereon an order of
4 notice to any or all interested and fixing the time and
5 place of hearing, and the applicant shall cause said order
6 of notice to be complied with before a hearing is had
7 thereon. In all cases under said acts, an application with
8 the order aforesaid thereon, published three weeks suc-

9 cessively in the paper of the printer of the State, the
10 last publication to be at least seven days before the
11 hearing, shall be taken and deemed to be notice to all
12 parties and persons interested. And any corporation
13 or person, whether named in the application or not,
14 appearing and claiming to be interested, shall be made
15 a party to the proceedings, and shall be heard thereon,
16 and said commissioners are hereby invested with the
17 authority of the courts of law to summon witnesses,
18 compel their attendance before them, and compel them
19 to testify; and depositions may be taken to be used at
20 such hearing in the same manner they are required to
21 be taken to be used in the trial of suits at law.

SEC. 9. The award and determination of said com-
2 missioners hereafter made, in relation to rates, passen-
3 gers, or merchandize, or railroad connections, or cross-
4 ings may be returned to the supreme judicial court in
5 any county to which it shall be directed by said com-
6 missioners, and a hearing thereon shall be had by the
7 court at the return term thereof, and such hearing
8 shall have priority over other causes.

SEC. 10. When exceptions are taken to any ruling,
2 order, opinion, decree, or judgment, of the judge be-
3 fore whom said hearing is had, other than an order to
4 recommit the award to said commissioners, the excep-

5 tions shall be drawn up, signed and filed within three
6 days from the hearing; and if allowed by the judge, a
7 certified copy thereof, and all papers used at said hear-
8 ing shall be forthwith forwarded by the clerk of said
9 court to the chief justice of said court, and the parties
10 shall be heard thereon by said court, sitting as a court
11 of law in the district where said court shall hold its
12 first session, after said exceptions are allowed. And if
13 said court of law does not sit within thirty days after
14 the chief justice receives said exceptions he shall at
15 the request of either party, detail a majority of the
16 justices of said court to hear the parties at such time
17 and place as he may order, and transmit his order to
18 the clerk of the court where said matter is pending,
19 who shall enter the same upon the docket under said
20 cause, and such entry shall be notice to the parties, at
21 the time and place fixed, the parties shall be heard by
22 the court, and said court, thus constituted shall have
23 all the power and authority now vested in them at its
24 regular session, sitting as a court of law.

SEC. 11. If the award of said commissioners is sus-
2 tained by said court, judgment shall be entered there-
3 on for the applicant, and it shall be enforced by the
4 proper process of said court, notwithstanding the pend-
5 ency of writ of error to remove the cause into the

6 supreme court of the United States and shall bind and
7 conclude the parties until reversed.

SEC. 12. All acts and parts of acts inconsistent with
2 the provisions of this act, are hereby repealed, and this
3 act shall take effect and be in force from and after its
4 approval by the governor.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, Feb. 2, 1860.

On motion of Mr. Woodbury of Sweden, laid on the table, and
350 copies ordered to be printed for the use of the Legislature.

Attest: CHARLES A. MILLER, *Clerk*.