

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

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SIEVENS & SAYWARD, PRINTERS TO THE STATE.

1860.

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# THIRTY-NINTH LEGISLATURE.

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SENATE.

No. 16.

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## STATE OF MAINE.

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

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AN ACT additional to an act to secure the safety and  
convenience of travelers on railroads, passed A. D. eigh-  
teen hundred and fifty-eight.

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

SECTION 1. Upon all railroad corporations [A.] is  
2 imposed the duty of causing their railroad, the track,  
3 rolling stock, bridges, viaducts, and culverts thereof,  
4 situate within this state, to be carefully examined an-  
5 nually, between the months of May and September, by  
6 one of the commissioners appointed by virtue of the act  
7 to which this is additional. And it is the duty of the

8 commissioners, annually in the month of May, to give  
9 two weeks notice of the time and place, one of them  
10 will attend for the purpose of making such examina-  
11 tion, by publishment in the state paper, and the extent  
12 of the examination, is according to the discretion of the  
13 commissioners making it, and the compensation for his  
14 services is to be paid by the railroad corporations for  
15 which the service is performed respectively ; and after  
16 such annual examination, the commissioner shall make  
17 a certificate certifying such examination has been  
18 made, and also briefly describing the condition of the  
19 road and rolling stock, and deliver the same to the  
20 clerk of the corporation, first receiving compensation  
21 for his services, and the corporation shall file such cer-  
22 tificate in the office of the secretary of state, before the  
23 first day of October in each year, and if any railroad  
24 corporation shall neglect to cause said examination to  
25 be made, or to pay said commissioner, or to file such  
26 certificate, such corporation shall forfeit and pay one  
27 thousand dollars, to be recovered in an action on the  
28 case, one half to the use of the state, and one half to  
29 the person suing for the same ; and the president and  
30 directors of any railroad corporation guilty of such neg-  
31 lect, shall not allow any passenger train to run over  
32 the railroad, and if any such passenger train is so run,

33 the president and directors of such corporation shall be  
34 liable personally, for all damages occasioned by any  
35 defect in said road or its rolling furniture for which  
36 they are by law now liable ; but such liability does not  
37 relieve and discharge the railroad corporation.

SECT. 2. If the commissioner find any defect or  
2 defects therein, which in his opinion would render the  
3 passage of such trains hazardous, either of the afore-  
4 said commissioners shall forthwith notify the superin-  
5 tendent, president, or any director of, or any lessee,  
6 trustee, or person other than the corporation running  
7 trains on such road of such defect or defects, and re-  
8 quire the party notified to show cause forthwith why  
9 the same should not be repaired. If the party notified  
10 neglects to appear at the time and place required, or  
11 appearing does not show cause to the satisfaction of  
12 the board of commissioners why the defect or defects  
13 should not be repaired, said board shall issue such or-  
14 der in writing as they may deem necessary for the  
15 safety of the public, and shall forthwith serve a copy  
16 thereof upon the person notified, or present at the  
17 hearing acting in behalf of the corporation, lessee,  
18 trustee or person running trains on said road.

SECT. 3. Awards or orders made by said board un-  
2 der the second section of this act shall bind and include

3 railroad corporations and all persons running passenger  
4 trains on any railroad until set aside by the supreme  
5 judicial court under section third of this act.

SECT. 4. 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 over  
7 any bridge, culvert or place determined by said com-  
8 missioners to be defective and hazardous, contrary to  
9 the order aforesaid, either of said commissioners shall  
10 file an information in the name of the state, with any  
11 judge of the supreme judicial court, in session or vaca-  
12 tion, praying for an injunction upon the corporation,  
13 lessee, trustee or person notified as aforesaid, until said  
14 order is complied with, or the court upon a hearing,  
15 dissolves said injunction or sets aside such order, and  
16 the judge aforesaid shall grant said injunction and en-  
17 force the same, and thereupon said commissioners shall  
18 notify the attorney general thereof, who shall after-  
19 wards conduct all proceedings thereon in said court.

SECT. 5. 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.

SECT. 6. 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.

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

13 by a [D.] connecting to a receiving road, over such  
14 receiving 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-perform-  
30 ance.

SECT. 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  
4 of notice to any or all interested, and fixing the time  
5 and place of hearing, and the applicant shall cause  
6 said order of notice to be complied with before a hear-  
7 ing is had thereon. In all cases under said acts, an



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

SECT. 9. The award and determination of said com-  
2 missioners hereafter made, in relation to rates, passen-  
3 gers, or merchandise, 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.)

SECT. 10. When exceptions are taken to any ruling,  
2 order, opinion, decree or judgment of the judge, before

3 whom said hearing is had, other than an order to re-  
4 commit 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,  
7 a certified copy thereof, and all papers used at said  
8 hearing shall be forthwith forwarded by the clerk of  
9 said court to the chief justice of said court, and the  
10 parties shall be heard thereon by said court, sitting as  
11 a court of law in the district where said court shall  
12 hold its first session, after said exceptions are allowed.  
13 And if said court of law does not sit within thirty days  
14 after the chief justice receives said exceptions, he shall  
15 at 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.

SECT. 11. If the award of said commissioners is sus-  
2 tained by said court, judgment shall be entered thereon  
3 for the applicant, and it shall be enforced by the proper

4 process of said court, notwithstanding the pendency of  
5 writ of error to remove the cause into the supreme  
6 court of the United States and shall bind and conclude  
7 the parties until reversed.

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

## AMENDMENTS.

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### A.

Amend in section one, by adding, “ except the rail-  
2 road companies in the county of Washington, now in  
3 operation.”

### B.

Amend in seventh section, by inserting in third line,  
2 the words “ or cross,” after word “ with.”

### C.

Amend in seventh section, by inserting in eighth line,  
2 the words “ or crossing,” after “ connecting.”

### D.

Amend in seventh section, by inserting in thirteenth  
2 line, the words “ crossing or” before “ connecting.”

STATE OF MAINE.

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IN SENATE, February 27, 1860.

This bill, reported by the Committee on Railroads, Ways and Bridges, ordered to be printed for the use of the Legislature.

JAMES M. LINCOLN, *Secretary*.