

# MAINE STATE LEGISLATURE

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# Sixty-Fourth Legislature

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SENATE.

No. 172.

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## STATE OF MAINE.

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### SENATE AMENDMENT "A" TO HOUSE DOC. NO. 287.

SECTION 1. Section one hundred and thirteen of chapter  
2 fifty-one of the Revised Statutes is hereby amended so as  
3 to read as follows :

‘The governor, with the advice and consent of the  
5 council, shall appoint three railroad commissioners, who  
6 shall act as a board and hold their offices for three years ;  
7 one of them shall be learned in the law and appointed and  
8 commissioned as chairman, and one of them shall be a  
9 civil engineer who shall have had experience in the con-  
10 struction of railroads. Said railroad commissioners shall  
11 receive a salary, to be paid from the State treasury as  
12 other State officers are paid, as provided by law, each the  
13 sum of twenty-four hundred dollars per annum, to be  
14 paid in equal quarterly payments, and a further sum not  
15 to exceed fifteen hundred dollars, to pay the salary of a  
16 clerk for said commissioner, and for necessary books,  
17 papers, stationery and other necessary incidental expenses  
18 necessary to the performance of their duties.

Every railroad company operating any railroad in this State, shall pay to the treasurer of the State a tax in addition to all taxes now provided by law, such a sum as shall be its *pro rata* part of the amount of the salary and salary of clerks and expenses of the said railroad commissioner, as provided in this section, to be determined by the governor and council on or before April first of each year, according to the gross transportation receipts of any such railroad company in this State, as returned to the railroad commissioners for the year ending September 30th, preceding the levying of such tax. The governor and council shall report the same to the treasurer of the State, who shall forthwith give notice thereof to every railroad company operating any railroad in this State, and said tax shall be payable on the first day of **July** next after the levy is made.

SECT. 2. The term "Railroad-Company" contained in this act shall be deemed and taken to mean all corporations, companies or individuals owning or operating any railroad in this State.

SECT. 3. All charges made by any railroad company for any service rendered or to be rendered for the transportation of passengers or property in this State, over any railroad in this State, or for the receiving, delivering, storage or handling of such property shall be *just* and *reasonable*; and every *unjust* and *unreasonable charge* for such service is prohibited and declared to be unlawful.

SECT. 4. That if any railroad company subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect or receive from any persons or person a

5 greater or less compensation for any service rendered or to  
6 be rendered in the transportation of passengers or prop-  
7 erty, subject to the provisions of this act, than it charges,  
8 demands, collects or receives from any other person or  
9 persons for doing for him, or them, a like and contemp-  
10 oraneous service in the like kind of traffic or upon  
11 like conditions and under similar circumstances; such  
12 railroad company shall be deemed guilty of *unjust dis-*  
13 *crimination*, which is hereby prohibited and declared to  
14 be unlawful; this section, however, is not to be construed  
15 as prohibiting a less rate per hundred pounds in a car  
16 load lot than is charged, collected or received for the  
17 same kind of freight in less than a car load lot.

SECT. 5. That it shall be unlawful for any railroad  
2 company subject to the provisions of this act, to make or  
3 give any undue or unreasonable preference or advantage  
4 to any particular person, company, firm, corporation or  
5 locality, or any particular description of traffic in any  
6 respect whatsoever, or to subject any particular person,  
7 company, firm, corporation or locality, or any particular  
8 description of traffic, to any undue or unreasonable preju-  
9 dice or disadvantage in any respect whatever, provided,  
10 however, that nothing herein contained shall be con-  
11 strued to prevent any railroad company from giving  
12 preference to those localities in this State where any such  
13 railroad company is in competition in the carriage of  
14 freight and passengers, with navigation by water to such  
15 localities.

SECT. 6. Neither said railroad commissioners or any  
2 railroad company shall increase or decrease the charge for  
3 the transportation of freights on any railroad in this State

4 without first giving public notice of such change for such  
5 time and in such manner as said commissioners may  
6 determine.

SECT. 7. It shall be the duty of said railroad commis-  
2 sioners upon the complaint of the mayor and aldermen of  
3 any city, or the selectmen of any town, to make an exam-  
4 ination of the rate of freight tariff charged by any rail-  
5 road company, any part of whose railroad or any part of  
6 its location lies within the limits of any such city or town.  
7 And if twenty-five or more legal voters in such city or  
8 town shall, by petition in writing, request the mayor and  
9 aldermen of such city or the selectmen of such town, to  
10 make the said complaint to said railroad commissioners,  
11 and the mayor and aldermen or selectmen refuse or de-  
12 cline to comply with the prayer of said petitioners, they  
13 shall state the reason for such non-compliance in writing  
14 upon said petition and return the same to the petitioners ;  
15 and the petitioners may thereupon, within ten days from  
16 the said refusal and return, present such petition to the  
17 said railroad commissioners and said commissioners shall,  
18 if upon inquiry and hearing of the petitioners, they think  
19 that the public good demands an examination, proceed to  
20 make it in the same manner as upon petition by the mayor  
21 and aldermen of any city or the selectmen of any town.  
22 Before proceeding to make such examination in accordance  
23 with said petition, said railroad commissioner shall give to  
24 the petitioners and railroad company interested reasonable  
25 notice in writing of the time and place of such examina-  
26 tion. If upon such examination it appears to such com-  
27 missioners that the complaint alleged by the applicants  
28 or petitioners is true, they shall so adjudge, and they

29 shall decide what is a just and reasonable charge for  
30 such freight, or what is an unjust discrimination, and  
31 shall inform the railroad company operating such railroad  
32 of their adjudication within ten days thereafter, and shall  
33 also report their doings to the governor in their annual re-  
34 port as now provided by law, and shall certify to such com-  
35 plainants the result of their adjudication; and such ad-  
36 judication shall be *prima facie* evidence of what is a just  
37 and reasonable charge or an unjust discrimination, in all  
38 actions brought against such railroad company concerning  
39 such unjust or unreasonable charges or unjust discrimi-  
40 nation.

SECT. 8. Upon any complaint in writing made as herein  
2 provided to the railroad commissioner of this State, that  
3 an unjust and unreasonable price has been charged by  
4 any railroad company in this State, or that any railroad  
5 company in this State has been guilty of an unjust dis-  
6 crimination, such railroad commissioners shall investigate  
7 such complaints, and, if they are sustained, shall make a  
8 certificate under their seal setting forth the facts found by  
9 them, which shall be *prima facie* evidence of the matter  
10 therein stated. In all cases where complaint shall be  
11 made in accordance with the provisions of this act, that  
12 an unjust and unreasonable charge is made by any rail-  
13 road company, or that any railroad company has been  
14 guilty of an unjust discrimination, and the railroad com-  
15 missioners shall find such complaint to be true, they shall  
16 require a modified charge for the services rendered, such  
17 as they deem to be just and reasonable, and shall certify  
18 their finding to the managing officers of the railroad  
19 company against which complaint is made; and the rate

20 so determined by the railroad commissioners to be just  
21 and reasonable shall be by the railroad company affected  
22 thereby, accepted and posted in a conspicuous place in  
23 such depot on the line of its road that may be designated  
24 by said railroad commissioners; and such rates so found  
25 shall, in all actions arising in any court in the State, be  
26 taken to be just and reasonable compensation for the  
27 services for which they provide, until the contrary is  
28 proven; and all compensation demanded or received by  
29 any railroad company in excess of the rates so determined  
30 shall, in any such action, be taken to be unjust and un-  
31 reasonable until the contrary is proven.

SECT. 9. Any railroad company that shall violate any  
2 of the provisions of this act, shall be liable in damages  
3 for every such offence to the person, company, firm or  
4 corporation injured thereby, in the full amount of actual  
5 damages sustained by said party aggrieved, together with  
6 the costs of suit and a reasonable attorney's fee, to be  
7 fixed by the court, and to be recovered in an action on  
8 the case, and the plaintiff may join in the same action as  
9 many different causes of action as he may have against  
10 such railroad company arising under this act.

SECT. 10. Any person who shall wilfully testify or  
2 affirm falsely to any material fact upon any oath or  
3 affirmation legally administered in any cause, matter or  
4 proceeding before said railroad commissioners or upon  
5 any return or report required by this act to be made,  
6 shall be deemed guilty of perjury, and shall be punished  
7 by imprisonment as now provided by law.

SECT. 11. Said railroad commissioners shall keep an  
2 actual record of all its official acts, and shall also provide

3 a seal on which shall be the impression, "Railroad Com-  
4 missioners' Seal, State of Maine," and all processes and  
5 certificates issued by said railroad commissioners shall be  
6 attested by said seal; copies of the records of said railroad  
7 commissioners, certified by any one of said commissioners  
8 or the clerk of said railroad commissioners, and attested  
9 with said seal, shall be received in evidence with like  
10 effect as copies of other public records.

SECT. 12. Said railroad commissioners shall have power,  
2 in the discharge of the duties of their office, to examine  
3 any of the books, papers or documents of any such rail-  
4 road company, or to examine under oath or otherwise  
5 any officer, director, agent or employe thereof, or any  
6 other person. The commissioners, or either of them, are  
7 empowered to issue subpœna and administer oaths in the  
8 same manner and with the same power to enforce obedi-  
9 ence thereto, in the performance of their said duties, as  
10 belong and pertain to courts of record in this State; and  
11 any person who may wilfully obstruct said commissioners  
12 in the performance of their duties, or who may refuse to  
13 give any information within their possession that may be  
14 required by such commissioners within the line of their  
15 duty, shall be guilty of misdemeanor, and shall be liable  
16 on conviction thereof to fine not exceeding one thousand  
17 dollars to be recovered by indictment.

Witnesses summoned before said commissioners shall be  
19 paid by the party at whose request they are summoned,  
20 the same fees and mileage as is now provided by law for  
21 witnesses before the supreme judicial court of this State,  
22 but said commissioners, in their discretion, may cause  
23 any such railroad company to pay the witness fees of any



24 officer, director, agent or employe, that may be sum-  
25 moned before them in relation to any matter in which  
26 such railroad company shall be a party in interest.

SECT. 13. Said railroad commissioners and their clerk,  
2 and any expert or other agent, whose services they may  
3 require, shall be transported free of charge in the per-  
4 formance of their duties concerning railroads on all reg-  
5 ular trains upon which passengers are transported by any  
6 railroad company in this State. Nothing in this act shall  
7 apply to the carriage, storage, or handling of property  
8 free or at reduced rates for the United States, States or  
9 municipal government, or for charitable purposes, or to  
10 or from fairs, and expositions for exhibitions thereat, or  
11 the issuance of mileage, excursion or commutation pas-  
12 senger tickets. Nothing in this act shall be construed to  
13 prevent railroads from giving free carriage to their own  
14 officers and employes, or to prevent the officers of any  
15 railroad company from exchanging passes or tickets with  
16 other railroad companies for their officers and employes ;  
17 and nothing in this act contained shall in any way abridge  
18 or alter the remedies now existing at common law or by  
19 statute, but the provisions of this act are in addition to  
20 such remedies.

SECT. 14. That said commissioners are hereby author-  
2 ized to require annual reports from all railroad companies  
3 subject to the provisions of this act, to fix the time and  
4 prescribe the manner in which such reports shall be made,  
5 and to require from such railroad companies specific  
6 answers to all questions upon which said commissioners  
7 may need information. Such annual reports shall show  
8 in detail the amount of capital stock issued, the amount

9 paid therefor, and the amount of payment for the same,  
10 the dividends paid, the surplus fund, if any; the number  
11 of stockholders, the funded and floating debts and interest  
12 paid thereon; the cost and value of the railroad com-  
13 panies property, franchises and equipments; the number  
14 of employes and the salary paid each class; the amount  
15 expended for improvement each year, how expended, and  
16 the character of such improvements; the earnings and  
17 receipts from each branch of business and from all sources;  
18 the operating and other expenses; the balance of profit  
19 and loss; and a complete exhibit of the financial opera-  
20 tions of such railroad companies each year, including an  
21 annual balance. Such report shall also contain informa-  
22 tion in relation to rates or regulation concerning fares or  
23 freights, agreements, arrangements, or contracts with  
24 other common carriers, as said commissioners may require;  
25 and said commissioners may, within their discretion, for  
26 the purpose of enabling them the better to carry out the  
27 purposes of this act prescribed (if in the opinion of said  
28 commissioners it is practicable to prescribe such uniformity  
29 and methods of keeping accounts) a period of time within  
30 which all railroad companies subject to the provisions of  
31 this act, shall have, as near as may be, a uniform system  
32 of accounts, and the manner in which accounts shall be  
33 kept.

SECT. 15. No railroad company operating any railroad  
2 in this State shall carry any passenger free of charge  
3 upon any railroad in this State, subject, however, to the  
4 provisions contained in section twelve of this act. No  
5 railroad company operating one hundred miles of railroad  
6 in this State, or that operates in this State and any other

7 State or States or country one hundred miles of connect-  
8 ing railroad, shall charge or receive a rate in excess of  
9 three cents a mile for the transportation of any passen-  
10 gers upon any such railroad in this State. No railroad  
11 company operating one hundred miles of railroad as  
12 aforesaid shall charge or receive a rate in excess of two  
13 cents a mile for the transportation of any passenger upon  
14 any such railroad in this State when such passenger shall  
15 offer to purchase and pay for at any one time a mileage  
16 or computation ticket, for one thousand miles or more  
17 transportation upon any such railroad in this State, and  
18 any such railroad company shall issue and sell to any  
19 person so desiring such a mileage or commutation ticket  
20 in such form as shall best suit its convenience for the  
21 transportation of the purchasers as aforesaid. Each  
22 passenger paying fare upon any railroad in this State  
23 shall be entitled to have transported without additional  
24 charge baggage not exceeding two hundred pounds in  
25 weight.

SECT. 16. All parts of chapter fifty-one of the Revised  
2 Statutes and amendments thereto, which are inconsistent  
3 with this act are hereby repealed.

SECT. 17. This act shall take effect when sixty days  
2 after it is approved by the governor.

STATE OF MAINE.

IN SENATE, March 8, 1889.

Offered by Mr. HAINES, and pending adoption laid on the table to be printed.

C. W. TILDEN, *Secretary.*