

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-SIXTH LEGISLATURE

HOUSE

NO. 559

House of Representatives, March 20, 1913.

Reported by Mr. Trimble from Committee on Railroads and Expresses, and ordered printed under joint rules. 500 extra copies.

W. R. ROIX, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTEEN.

AN ACT for the abolishment of grade crossings of railroads.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The selectmen of the town within which a
2 public way crosses or is crossed by a railroad may file a
3 petition in writing to the board of railroad commissioners
4 alleging that public safety requires an alteration in such
5 crossing, its approaches, the method of crossing the loca-
6 tion of the public way, the closing of a public crossing and
7 the substitution of another therefor, not at grade, or the
8 removal of obstructions to the sight at such crossing, and
9 praying that the same may be ordered; whereupon said

10 commissioners shall appoint a time and place for a hearing
11 thereon after notice of not less than ten days to the peti-
12 tioners, the corporation, the municipality in which such
13 crossing is situated, the owners or occupants of the land
14 adjoining such crossing and adjoining that part of the way
15 to be changed in grade, and to the attorney general of the
16 state, whose duty it shall be by himself or through the
17 county attorney of the county wherein the crossing is lo-
18 cated to represent the interests of the state at such hear-
19 ing. And after such notice and hearing said commission-
20 ers shall determine what alterations, changes or removals
21 shall be made and by whom made, and shall also determine
22 and fix the damages sustained by any person whose land
23 is taken, and the special damages which the owner of land
24 adjoining the public way may sustain by reason of any
25 change in the grade of such way. Said commissioners shall
26 apportion such expenses and damages between the state,
27 the town in which the crossing is located, and the corpo-
28 ration owning or operating the railroad which crosses such
29 public way, and shall order an amount not exceeding twen-
30 ty-five per cent of the whole expense of such alteration,
31 change or removal, including the land damages as afore-
32 said, to be paid by the state, and an amount not exceeding
33 ten per cent. of the whole expense of such alteration, change
34 or removal, including the land damages, as aforesaid, to be
35 paid by the town in which such crossing is located, and the
36 remainder of the expense shall be paid by the corporation

37 owning or operating the railroad. If, however, the public
38 way affected by such order was constructed after the loca-
39 tion of the railroad which it crosses at grade, said com-
40 missioners may order an amount not exceeding twenty-five
41 per cent. of the whole expenses and damages to be paid
42 by the state, and an amount not exceeding fifteen per cent.
43 thereof to be paid by the town in which such crossing is
44 located, and the remainder to be paid by the corporation
45 owning or operating the railroad. Every corporation op-
46 erating more than one hundred and fifty miles of single
47 track road in this state shall remove at least one grade
48 crossing each year for each one hundred and fifty miles,
49 or fraction thereof exceeding seventy-five miles, of road
50 operated by it in this state, one of which crossings, at least,
51 shall be that which in the opinion of said railroad com-
52 missioners is among the most dangerous on the line of said
53 railroad. If a railroad corporation fails to remove at least
54 one grade crossing every year for every one hundred and
55 fifty miles, or fraction thereof exceeding seventy-five miles,
56 of road operated by it in this state, the railroad commis-
57 sioners, if in their opinion the financial condition of the
58 corporation will warrant, shall order such crossing or cross-
59 ings removed as in their opinion said directors should have
60 removed under the above provisions, and said commission-
61 ers in so doing shall proceed in all respects as if select-
62 men had applied therefor.

Sect. 2. In the absence of any application therefor the

2 railroad commissioners may order such alteration in a
3 crossing as they deem necessary for the safety of the pub-
4 lic, and they shall determine and direct by whom such alter-
5 ation shall be made, at whose expense and within what
6 time, after a hearing held or notices to interested parties
7 as provided in section one; provided, that in all cases aris-
8 ing under this section twenty per cent. of the expense, in-
9 cluding damages and special damages as set forth in the
10 preceding section, shall be paid by the state and the re-
11 mainder shall be assessed upon the railroad corporation or
12 corporations benefited by such orders; and provided, that
13 such alterations as are thus made at the primary instance
14 of the railroad commissioners shall not be ordered so as
15 to direct the construction of more than one bridge in any
16 one year on any one railroad.

Sect. 3. Whenever the railroad commissioners, upon an
2 application or petition brought under the provisions of sec-
3 tion one of this act find that a public way crosses or is
4 crossed by the tracks of more than one railroad and the
5 tracks of such railroads are so near together that public
6 convenience requires the work of separating the grades to
7 be done under and in compliance with one order, they shall
8 give notice to all the corporations operating such railroads
9 to appear before them and be heard upon the application;
10 and after such notice and hearing said commissioners shall
11 determine what alterations shall be made, if any, so as to
12 separate the grades of all such crossings at the same time

13 and shall determine by whom such work shall be done and
14 shall apportion the expense to be borne by the railroad
15 corporations between such corporations in such manner as
16 said commissioners shall deem just and proper.

Sect. 4. A railroad corporation will take land necessary
2 for making changes in accordance with this act by observ-
3 ing the provisions of sections twenty-seven, twenty-eight
4 and twenty-nine of chapter fifty-one of the Revised Stat-
5 utes of Maine.

Sect. 5. Whenever a railroad corporation operating a
2 railroad within the state operates less than one hundred and
3 fifty miles of single track, such railroad corporation shall
4 remove at least one grade crossing upon such railroad ev-
5 ery year in accordance with the provisions of this act un-
6 less such railroad corporation shall, upon application to the
7 board of railroad commissioners and after notice and hear-
8 ing, be exempted by said commissioners from the require-
9 ments of this act for the year then current; notice of such
10 application and of the time and place of hearing shall be
11 given by said commissioners to the attorney general of the
12 state, who shall by himself or through the county attorney
13 of the county where the crossing is located attend such
14 hearing and represent the interests of the state. If upon
15 hearing said commissioners refuse to exempt such railroad
16 corporation from the requirements of this act for the cur-
17 rent year, said commissioners shall designate and determine
18 the crossing upon such railroad, and the one among the

19 most dangerous upon such railroad, to be removed; and
20 such railroad corporation shall have the same right of ap-
21 peal from the decision of said commissioners as is herein-
22 after provided in this act.

Sect. 6. The order of the railroad commissioners relating
2 to any matter upon which they may act under the authority
3 of the preceding sections of this act shall be communicated
4 in writing to the petitioners and to all persons to whom
5 notice of the hearing on such petition was given; and any
6 person so aggrieved by such order, who was a party to
7 such proceedings, may appeal from such order to the su-
8 preme judicial court within and for the county in which
9 such way or crossing is located in the manner now pro-
10 vided by law for appeals from the findings of the railroad
11 commissioners. Any person aggrieved by the decision or
12 judgment of the railroad commissioners in relation to dam-
13 ages for land taken for the purposes of this act may appeal
14 from said decision in the manner provided for in section
15 thirty-six of said chapter fifty-one of the Revised Statutes
16 of Maine.

Sect. 7. The amount to be paid under the provisions of
2 the preceding six sections by the state in any one year shall
3 not exceed twenty-five thousand dollars, but if in any year
4 the expenditure by the state shall not amount to twenty-
5 five thousand dollars, the unexpended balance thereof shall
6 be added to the twenty-five thousand dollars allowed to be
7 paid by it in any subsequent year. The sum of twenty-

8 five thousand dollars is hereby appropriated for the pur-
9 pose of carrying out the provisions of this act, and the
10 same shall be payable through the office of the state treas-
11 urer upon the order of the governor and council.

Sect. 8. When a railroad corporation fails to remove in
2 any year the crossings required to be removed by the pro-
3 visions of this act, such crossings not so removed shall be
4 added to the number required to be removed for the fol-
5 lowing year.

Sect. 9. This act shall not apply to street railway corpo-
2 rations excepting, however, that in all cases where a street
3 railway has a right of way in a public way crossing a rail-
4 road the commission shall apportion to such street railway
5 an equitable share of the damages and expenses of altera-
6 tion which shall be paid by said street railway; and in all
7 cases where a street railway acquires the right to lay its
8 tracks over a crossing which has been altered under the
9 provisions of this act, the railroad commissioners shall fix
10 the amount which such railway shall pay to the state before
11 it shall exercise its right to lay its tracks over such cross-
12 ing.

Sect. 10. All acts and parts of acts inconsistent with this
2 act are hereby repealed.

Sect. 11. This act shall take effect January 1st, 1914.