

# MAINE STATE LEGISLATURE

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# EIGHTY-THIRD LEGISLATURE

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**Senate Document**

**No. 172**

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S. P. 392

In Senate, March 3, 1927.

Referred to Committee on Public Utilities and 500 copies ordered printed. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Speirs of Cumberland.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND TWENTY-SEVEN

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AN ACT to Amend Section Thirty-four of Chapter Twenty-four, of the Revised Statutes, as Amended, Relative to the Abolishment of Grade Crossings.

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

Section thirty-four of chapter twenty-four, as amended by 2 chapter thirty-eight of the public laws of nineteen hundred 3 seventeen and by chapter ninety-one of the public laws of 4 nineteen hundred twenty-five, is hereby further amended 5 by adding after the word "railroad" in the thirty-second 6 line thereof, the words, "but the commission may approve 7 agreements made by the railroad or other persons interested, 8 varying the above percentages, provided the amount to be 9 paid by the state shall not exceed the twenty-five per cent

10 herein specified, and the amount to be paid by the town  
11 shall not exceed the ten per cent herein specified, unless  
12 the town shall otherwise vote,' so that said section, as  
13 amended, shall read as follows:

'Sect. 34. The municipal officers of a town or city in  
2 which a public way crosses or is crossed by a railroad,  
3 may file a petition in writing with the public utilities com-  
4 mission alleging that public safety requires the abolishment  
5 of or an alteration in such crossing, or its approaches; or  
6 a change in the method of crossing a public way; or the  
7 closing of a crossing and the substitution of another there-  
8 for, not at grade; or the removal of obstructions to the  
9 right at such crossing, and praying that the same may be  
10 ordered; whereupon said commission shall appoint a time  
11 and place for a hearing thereon after notice of not less than  
12 ten days to the petitioners, the state highway commission,  
13 the corporation, the municipality in which such crossing is  
14 situated, the owners or occupants of the land adjoining such  
15 crossing, or adjoining that part of the way to be changed  
16 in grade, and to the attorney general of the state, whose  
17 duty it shall be by himself or through the county attorney  
18 of the county wherein the crossing is located, to represent  
19 the interests of the state at such hearing. After such no-  
20 tice and hearing the commission shall determine what abol-  
21 ishment, alteration, change or removal, if any, shall be  
22 made for public safety and by whom such abolishment, al-  
23 teration, change or removal shall be made. To facilitate

24 such abolishments, alterations, changes or removals, high-  
25 ways and other ways may be raised or lowered or the  
26 courses of the same may be altered to permit a railroad to  
27 pass at the side thereof. For the purposes aforesaid land  
28 may be taken and damages awarded as provided for laying  
29 out highways. The commission shall determine and fix the  
30 damages sustained by any person whose land is taken and  
31 the special damages which the owner of land adjoining the  
32 public way may sustain by reason of any change in the  
33 grade of such way. The commission shall apportion such  
34 expenses and damages between the state, the town in which  
35 the crossing is located, and the corporation owning or op-  
36 erating the railroad which crosses such public way, and  
37 shall order twenty-five per cent thereof to be paid by the  
38 state, ten per cent thereof to be paid by the town in which  
39 such crossing is located, and the remainder thereof shall  
40 be paid by the corporation owning or operating the rail-  
41 road, but the commission may approve agreements made  
42 by the railroad or other persons interested, varying the above  
43 percentages, provided the amount to be paid by the state  
44 shall not exceed the twenty-five per cent herein specified,  
45 and the amount to be paid by the town shall not exceed  
46 the ten per cent herein specified, unless the town shall other-  
47 wise vote. While the use of any way is obstructed in carry-  
48 ing out the foregoing provisions of this section, such tem-  
49 porary way shall be provided by the corporation as the  
50 commission may order; provided, however, that the com-

51 mission shall not make any order upon any petition filed  
52 under the provisions of this section until they are satisfied,  
53 by investigation or otherwise, that the financial condition  
54 of the corporation owning or operating the railroad in ques-  
55 tion will enable said corporation to comply with such order,  
56 and that the probable benefit to the public will warrant  
57 said order and the probable expense resulting therefrom,  
58 and that said order can be complied with without exceed-  
59 ing the state appropriation available therefor. The state  
60 highway commission shall have the same right of petition  
61 under this section as the municipal officers of a town or  
62 city; and in case a petition is filed by them, the municipal  
63 officers of any city or town interested in the subject matter  
64 of said petition shall be notified by the public utilities com-  
65 mission of the filing of such petition and given opportunity  
66 to appear and be heard thereon.'