

MAINE STATE LEGISLATURE

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Legislative Document

No. 609

H. P. 433

House of Representatives, February 7, 1957.

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Walter of Waldoboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Clarifying Procedure Relating to Reconstructing or Altering Railroad Crossings.

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

Sec. 1. R. S., c. 96, § 49, amended. Section 49 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 49. Maintenance of ways already laid out. Notwithstanding the provisions of any section of chapter 45, in case of ways already laid out which cross over or under any railroad track or tracks and not at grade, the allocation of the expense of ~~rebuilding, reconstructing and~~ maintaining so much thereof as is within the limits of such railroad shall be determined, de novo, as provided by ~~the preceding~~ section 48, by the Public Utilities Commission upon application to it by any corporation whose track is or tracks are so crossed, or upon application by the municipal officers of any town in which the crossing is located, or upon application by the State Highway Commission.'

Sec. 2. R. S., c. 96, § 51, amended. Section 51 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 51. Petition to abolish, reconstruct or alter crossings; damages; expenses; temporary ways. ~~Any railroad company, the~~ The State Highway Commission or the municipal officers of a city or town ~~in which~~ whenever a public way **over which they have jurisdiction** crosses or is crossed by a railroad, whether such crossing be at grade or otherwise, **or any railroad company** may file a petition in writing with the Public Utilities Commission alleging that safety **or public convenience** either to the traveling public or in the operation of the railroad requires the abolishment of **or the reconstruction of** or an alteration

~~in~~ of such crossing or its approaches, or a change in the method of crossing a public way; or the closing of a crossing and the substitution of another therefor; or the removal of obstructions to the sight at such crossing, and praying that the same may be ordered; ~~whereupon.~~ **Whereupon** said Commission shall appoint a time and place for a hearing thereon after notice of not less than 10 days to the petitioners, the State Highway Commission, the railroad corporation, the municipality in which such crossing is situated, the owners or occupants of the land adjoining such crossing or adjoining that part of way to be changed in grade, and to the Attorney General of the State whose duty it shall be, by himself or through the county attorney of the county wherein the crossing is located to represent the interests of the State at such hearing. After such notice and hearing the Commission shall determine what abolishment, **reconstruction**, alteration, change or removal, if any, shall be made to insure safety as ~~aforsaid~~ **or public convenience** and by whom such abolishment, **reconstruction**, alteration, change or removal shall be made. The jurisdiction and authority of said Commission as conferred by this section shall exist whether the change or alteration in such crossing is within or without the located limits of a public way. To facilitate such abolishment, **reconstruction**, alteration, changes or removals, highways and other ways may be raised or lowered or the courses of the same may be altered to permit a railroad to pass at the side thereof. For the ~~purpose~~ **purposes** aforesaid land may be taken and damages awarded as provided for laying out highways. The Commission shall determine how much land may be taken and shall fix the damages sustained by any person whose land is taken and the special damages which the owner of land adjoining the public way may sustain by reason of any change in the grade of such way; ~~appeal.~~ **Appeal** from any decision, order or award of the Commission may be had as provided in section 53. The Commission shall apportion ~~such~~ **the** expenses **pertaining thereto** and damages ~~between the state, the town in which the crossing is located and the corporation operating the railroad which crosses such public way, and shall order 40% thereof to be paid by the state, 10% thereof to be paid by the town in which such crossing is located and the remainder thereof shall be paid by the corporation operating the railroad;~~ **provided, however, that as to the state highways, the commission shall apportion such expenses and damages between the state and the corporation operating the railroad on a basis of 50% to the state, to be paid by the state from the state highway department funds and 50% to such corporation as follows; if the way involved is a state highway, 50% to the State Highway Commission and 50% to the corporation operating the railroad: If the way involved is a state aid highway, 50% to the State Highway Commission and the municipality or municipalities in which the way is located, the pro rata share being determined by the percentage of state aid granted on the way involved and 50% to the corporation operating the railroad; if the way involved is a town way, 35% to the State, to be paid out of the general fund, 15% to the town, or in cases under the provisions of the last paragraph of this section, 15% to the county commissioners of the county, in which the way is located and over which the county commissioners have jurisdiction, and 50% to the corporation operating the railroad.** The Commission may approve agreements made by the corporation or other parties interested, including the State, acting by and through the State Highway Commission, in respect to the work, or varying the above percentages

provided the amount to be paid by the town shall not exceed the ~~10%~~ **percentage** herein specified unless the town shall otherwise vote. As to any elimination or alteration made under the provisions of this section, the Commission may determine what work fairly and properly ~~is a part of such elimination or alteration and what work fairly and properly~~ should be regarded as highway construction.

The Commission may make such order relative to the maintenance of crossings at grade ~~and of crossings where the highway is carried over the railroad,~~ **or otherwise** as it may deem necessary, and may determine whether such expense shall be borne by such railroad corporation, by the ~~city or town~~ **municipality** in which any such crossing is located or by the State acting by or through the State Highway Commission; or said Commission may apportion such expense equitably between such railroad corporation, such ~~city or town~~ **municipality** and the State acting by or through the State Highway Commission.

While the use of any way is obstructed in carrying out the foregoing provisions of this section, such temporary way shall be provided as the Commission may order; ~~provided, however, that the.~~ **The** Commission shall not make any order upon any petition filed under the provisions of this section until they are satisfied, by investigation or otherwise, that the financial condition of the corporation operating the railroad in question will enable said corporation to comply with such order, and that the probable benefit to the public will warrant said order and the probable expense resulting therefrom, and that said order can be complied with without exceeding the state appropriation available therefor.

The county commissioners shall have the same right of petition under the provisions of this section, with respect to roads in unorganized places laid out by them under the provisions of section 55 of chapter 89, as have municipal officers of a ~~city or town~~ **municipality** under the foregoing provisions of this section; ~~and in.~~ **In** case a petition is filed by them, all parties interested in the subject matter of the petition shall be notified by the Public Utilities Commission of the filing of such petition and given opportunity to appear and be heard thereon.'

Sec. 3. R. S., c. 96, § 52, amended. Section 52 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 52. Public way crossing tracks of more than one railroad. Whenever the Public Utilities Commission, upon an application or petition brought under the provisions of ~~the preceding~~ section ~~51,~~ finds that a public way crosses or is crossed by tracks of more than one railroad and the tracks of such railroads are so near together that public **safety or** convenience requires the work of abolishment, **reconstruction,** alteration, change or removal to be done under and in compliance with one order, they shall give notice to all the corporations operating such railroads to appear before them and be heard upon the application; ~~and after.~~ **After** such notice and hearing said Commission shall determine what abolishment, **reconstruction,** alteration, change or removal, if any, of said crossing shall be made and shall determine by whom such work shall be done and shall apportion the percentage of expense to be borne by the railroad corporations ~~as heretofore provided~~ between such corporations in such manner as said Commission shall deem just and proper.'

Sec. 4. R. S., c. 96, § 54, amended. Section 54 of chapter 96 of the Revised Statutes is hereby amended to read as follows:

'Sec. 54. Amount paid by state or railroad corporation limited. The amount to be paid in any year by the **Public Utilities Commission acting for the State** under the provisions of ~~the 3 preceding~~ sections **51, 52 and 53**, except as herein provided, shall not exceed ~~\$15,000~~ **\$25,000** for work in connection with ~~state aid and 3rd class highways town ways~~, and said amount shall be appropriated ~~annually from the general fund for each fiscal year; the~~. The said appropriation shall be cumulative and any part of said sum of ~~\$15,000~~ **\$25,000** not expended during the year for which it is appropriated shall be added, at the close of said year, to the sums subsequently appropriated and may be expended in any subsequent year or years. ~~No railroad corporation shall be required to expend, under the provisions of the 3 preceding sections, more than \$100,000 during any period of 3 consecutive calendar years, except that railroad corporations operating narrow gauge railroads or standard gauge railroads of less than 50 miles of main track may not be required to expend more than \$50,000 during any period of 6 consecutive calendar years; provided if any two or more railroad corporations are each using the facilities of any railroad terminal company, any sums expended by said terminal company under the provisions of the 3 preceding sections shall for the purposes hereof be regarded as expended by said railroad corporations and in the proportions in which said railroad corporations are at the time of such decree bound to pay the said terminal company for the use of its facilities.'~~