

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# PUBLIC ACTS

OF THE

# STATE OF MAINE,

PASSED BY THE

## SIXTEENTH LEGISLATURE,

JANUARY SESSION, 1836.

---

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 23, 1820.

---

AUGUSTA:

SMITH & ROBINSON.....PRINTERS TO THE STATE.

1836.

—not to affect petitions pending.

*vided*, That this Act shall not in any way operate upon or affect petitions, before this Legislature, whether the same shall be definitely acted on at this or any future session.

[Approved by the Governor, February 24, 1836.]

### Chapter 204.

AN ACT defining certain rights and duties of Rail Road Corporations.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That Rail Road Corporations, which have been, or may be granted, shall have the right to take and hold so much of the Land, and other real estate of private persons, as may be necessary for the location, construction, and convenient operation of their Rail Roads; and they shall, also, have the right to take, remove, and use for the construction and repair of said Rail Roads and appurtenances, any earth, gravel, stone, timber, or other materials, on or from the land so taken,—*Provided, however*, that said land, so taken, shall not exceed four rods in width, except, where greater width is necessary for the purpose of excavation, or embankment;—*And provided, also*, that, in all cases, said Corporations shall pay for all such lands, estate, or materials, so taken and used, such price, as they, and the owner, or respective owners thereof may mutually agree on; and, in case said parties shall not otherwise agree, then said Corporations shall pay such damages, as shall be ascertained and determined, by the County Commissioners for the County, where such land or other property may be situate, in the same manner, and under the same conditions and limitations, as are by law provided, in the case of damages by laying out of highways.

Railroad corporations may take private property necessary for the construction of their work.

—may take, remove and use earth, gravel, stone, lumber and other materials.

Land taken not to exceed 4 rods in width except for excavation and embankment.

To pay for same and mode of settling damages.

And the land so taken by said Corporations, shall be held as lands, taken and held for public highways. And no application to said Commissioners to estimate said damages, shall be sustained, unless made within three years, from the time of taking such land, or other property; or where it has already been taken, within one year from the time of passing this Act. *Provided further* that nothing in this Act shall authorize such Corporation to take any dwelling house, meeting house or public or private burying ground without the consent of the owners or proprietors.

Land taken,  
how held.

Application for  
damages to be  
made within 3  
years, &c.

Dwelling house,  
meeting house or  
burying grounds  
not to be taken.

SECT. 2. *Be it further enacted,* That on application being made to the County Commissioners, as aforesaid, either by said Corporations, or by the owner or owners of lands so taken, it shall be the duty of said Corporations, if required by the owner, or owners of such land or other property so taken, to give full and ample security, to the satisfaction of said Commissioners, for all damages and costs, which may be finally ascertained, determined, and awarded, by said Commissioners, for the land or other property so taken. And on the refusal, or failure of said Corporations to give such security, all their right or authority to enter upon, or use said land or other property so taken, except for making surveys, shall be suspended and stayed, until they shall give such security. But after the security is given, they may proceed to use said land, or other property, for the purpose, for which it was taken.

Security to be  
given for dama-  
ges and costs, or  
land not to be  
taken.

SECT. 3. *Be it further enacted,* That when any Rail Road Corporation shall take any land, or other estate, as aforesaid, of any infant, person non compos mentis, or femme covert, whose husband is under Guardianship, the Guardian of such infant, or person non compos mentis, and such femme covert, with the Guardian of her husband shall have full power and authority to agree and settle with said Corporation, for all damages, or claims for dam-

Guardian of in-  
fants or persons  
non compos  
mentis and fem-  
me covert whose  
husband is un-  
der guardian-  
ship, may agree  
upon damages  
and give relea-  
ses.

age, by reason of taking such land and estate aforesaid, and give good, and valid releases and discharges therefor.

SECT. 4. *Be it further enacted,* That said Corporations which have been, and may be hereafter established, may raise or lower any turnpike, highway, or private way, when it may be necessary to allow their Rail Road to pass over, or under the same, and in such cases said Corporations shall put said turnpike, highway, or private way, as soon as may be, in as good repair and condition as before said alterations shall have been made by said Corporations; and as soon as said alterations, and amendments are completed, said Corporations shall give notice in writing of the completion thereof, to the proprietors of such turnpike and to the Selectmen of the Towns, where such highway, or private way is situate. And if said Proprietors, or Selectmen require further alterations and amendments of said turnpike, highway, or private way, and give notice thereof in writing to said Corporations; and if the parties cannot agree, what further alterations and amendments are necessary—either of said parties may apply to the County Commissioners of the County, where such portion of the turnpike, highway, or private way is situate, at the next regular meeting of said Commissioners, after said notice to said Corporations, to determine what further amendments and alterations, if any, shall be made in said turnpike, highway, or private way—and the decision of said Commissioners shall be final, and the costs of such application shall be awarded in favor of the prevailing party. And if said Corporations shall unnecessarily or unreasonably neglect to make such alterations, or amendments, as said Commissioners shall determine to be reasonable and proper, the said Proprietors, or Selectmen shall be entitled to their remedies in damages, by an action on the case, in any Court proper to try the same. And no action

May raise or lower any turnpike, highway or private way in certain cases, putting the same in good repair.

Notice in writing of the completion of such repairs to be given.

—further alterations provided for.

Proprietors of land or selectmen entitled to damages.

shall be sustained against said Corporations, for damages, by said Proprietors, or Selectmen, or the owner, or owners, of any private way, by reason of any obstruction thereto, occasioned by said Rail Roads crossing the same, unless brought within one year from the time said injury is occasioned.

Actions to be brought within one year.

SECT. 5. *Be it further enacted,* That, if any Rail Road Corporation, which has been, or may be established, shall be desirous of altering the course of any highway, where it is crossed by their Rail Road, for the purpose of facilitating the crossing of the same, they may alter the same accordingly in such manner, as the County Commissioners for the County, where such way is situate, may direct; *Provided,* the said Commissioners, after due notice to the Selectmen of the Town, where such highway is situate, shall be of opinion, that such alteration will not essentially injure said highway. And in case any Rail Road Corporation shall, before commencing the work of raising or lowering any turnpike, highway, or private way, as aforesaid, or at any time previous to completing the same, be desirous of obtaining the approbation of said Commissioners in respect to the mode of raising or lowering the same, the said Corporation may apply to said Commissioners for this purpose, whose duty it shall be, after due notice to the parties interested, to direct the mode of performing said work; and their decision shall be final. And it shall be the duty of said Corporation to provide and keep in good order for travelling, suitable temporary ways or turnouts, that travellers may not be unnecessarily delayed or impeded, during the time of performing said work.

—may alter the course of highway in certain cases.

—approbation of County Commissioners.

—temporary ways to be provided.

SECT. 6. *Be it further enacted,* That said Corporations, which have been or may hereafter be established shall have power to construct and carry their Rail Roads across, over or under any Rail Road or Canal, when it may be necessary in the

May carry rail road or canal across, over or under any other railroad or canal.

construction of the same; and in such cases said Corporations shall so construct their Rail Road crossings as not unnecessarily to interrupt or impede, the travel or transportation upon their Rail Road or Canal so crossed. And said Corporations shall be liable in an action on the case for the damages occasioned to any Corporation or party injured, by reason of said crossing.

—liable for damages to party injured.

Bell to be placed on Engine, and rung at the distance of at least eighty rods from the place of crossing.

Sign boards to be placed at the crossings.

SECT. 7. *Be it further enacted,* That it shall be the duty of every Rail Road Corporation to cause a bell to be placed on each locomotive engine, passing on their Road, which shall be at least of the weight of thirty-five pounds, and the said bell shall be rung, at the distance of, at least, eighty rods from the place of crossing any turnpike, railroad, highway, or townway—upon the same level with the Rail Road, and be kept ringing, until the said engine shall have passed said turnpike, Rail Road, highway, or townway, and it shall be the duty of each Rail Road Corporation to cause boards to be placed and constantly maintained across each turnpike, Rail Road, highway, or townway, where it is crossed by the Rail Road on the same level therewith, the said boards to be well supported by posts or otherwise; and to be of such height as to be easily seen by travellers, without obstructing the travel; and on each side of said boards the following inscription shall be printed, in capital letters of at least, the size of nine inches each;—RAIL ROAD CROSSING, LOOK OUT FOR THE ENGINE WHILE THE BELL RINGS.—And if the Mayor and Aldermen of any City, or Selectmen of any town, wherein any turnpike, highway, or townway, so crossed, by any Rail Road, is situate, shall be of opinion, that the foregoing provision is not a sufficient security to the public, in any particular cases, and that it is necessary for such security, that gates should be erected across the Rail Road, and that an Agent should be stationed to open and close

Agent to be sta-

said gates, whenever any engine passes, the said Selectmen may request in writing said Rail Road Corporation to erect said gates, and station said Agent as aforesaid; and in case said Rail Road Corporation shall neglect or refuse so to do, the said Mayor and Aldermen, or Selectmen may apply to the County Commissioners for their decision upon the reasonableness of such request. And if said Commissioners, after due notice, and hearing the parties, shall decide, that the erection of said gates and providing said Agent, is necessary for the security of the public, it shall be the duty of said Rail Road Corporation to comply with their decision. And in case said Commissioners shall be of opinion, that the establishment of said gates, and Agent is not required as aforesaid, the said Mayor, and Aldermen and Selectmen shall be liable to pay all the costs of their application. But if the said application shall be sustained, by said Commissioners, the costs thereof shall be paid by said Rail Road Corporation.

tioned to open and close gates in certain cases.

SECT. 8. *Be it further enacted,* That if any Rail Road Corporation, shall, unreasonably, neglect, or refuse to comply with any or either of the requisitions of the preceding section of this Act, they shall forfeit and pay to the use of the State, a sum not exceeding five hundred dollars, to be recovered by action, or indictment in any Court of competent jurisdiction. And if any Agent stationed, as aforesaid, shall neglect, or refuse to open or close said gates, for the safe passing of the engine on the Rail Road, or the traveller on the turnpike, highway or townway, he shall forfeit and pay, to the use of the State for every such neglect or refusal, a sum not exceeding fifty dollars, to be recovered as aforesaid; and the Rail Road Corporation shall also, be liable for all damages, sustained by any person, in consequence of such neglect, or refusal of any of their Agents; or by any negligent and careless

Penalty of five hundred dollars for neglect to comply with the provisions of preceding section, and fifty dollars in case agent refuses or neglects to open gates.

Corporation liable further to all damages.



mismanagemment of their engines, in an action on the case by the person or persons, sustaining such damages.

Transfer  
of shares.

SECT. 9. *Be it further enacted,* That the shares in the Capital Stock in any Rail Road Corporation, may be transferred by conveyance, in writing, recorded, either by the Treasurer, in books to be kept in his office, or by an officer duly authorized for that purpose by the Directors, in books to be kept at such other place, as they may appoint, within this State. And no conveyance of any such shares, shall be valid, to hold the same, against the legal claims of any other person, or persons, than the grantor, or grantors, or his or their executors, or administrators, unless so recorded. And on the making of such transfer, the certificates of the shares transferred shall be given up, and cancelled, and new certificates shall be issued to the purchasers of shares, unless some attachment of said shares should intervene, and in that event the issuing of said certificates shall be suspended until said attachment is dissolved, or the shares sold by process of law. And it shall be the duty of every Rail Road Corporation to cause a transcript of the record, of all transfers, not originally recorded on the books, kept by the Treasurer, to be entered on the books of the said Treasurer, within ten days from the date of the original record. And in case such transcript is not thus entered, the transfer shall not operate to the prejudice of any intervening claims.

In case of attachment of shares the issuing of new certificates to be suspended.

Record of transfers.

Provisions inconsistent repealed.

SECT. 10. *Be it further enacted,* That all Acts and parts of Acts, inconsistent with the provisions of this Act be, and the same, hereby, are repealed, and this Act shall take effect from and after the passing thereof.

[Approved by the Governor, March 1, 1836.]