

# 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)

THE  
**REVISED STATUTES**

OF THE  
STATE OF MAINE,

PASSED OCTOBER 22, 1840;

TO WHICH ARE PREFIXED

**THE CONSTITUTIONS**

OF THE

*United States and of the State of Maine,*

AND TO WHICH ARE SUBJOINED THE OTHER

PUBLIC LAWS OF 1840 AND 1841,

WITH AN

**APPENDIX.**

---

PRINTED AND PUBLISHED IN COMPLIANCE WITH A RESOLVE OF OCTOBER 22, 1840.

---

**Augusta:**

PUBLISHED BY WILLIAM R. SMITH & Co., PRINTERS TO THE STATE.

.....  
1841.

## CHAP. 80.

Penalty, for injuring toll gates, or attempting to pass without paying toll. 1821, 138, § 5. 1827, 357, § 1. 3 Pick. 342.

Certain charters not affected by this chapter.

Covered toll bridges to be lighted. 1839, 384, § 1.

Penalty, for neglect. 1839, 384, § 2.

SECT. 35. If any person shall maliciously break down, or otherwise destroy or injure, any toll gate or [on] any turnpike or toll bridge, or shall wilfully injure such turnpike or bridge; or, if any person, liable to pay toll at such turnpike or bridge, shall pass or attempt to pass the gate thereof, with the intent of avoiding the payment of the legal toll, the same being demanded, he shall forfeit and pay not less than five dollars, nor more than fifty dollars, to the use of the proprietors of such road or bridge; in addition to any actual damage, thereby occasioned to such road or bridge.

SECT. 36. None of the provisions of this chapter shall be construed, as enlarging, diminishing or altering the rights, powers, obligations or liabilities of any turnpike corporation, existing in this state on the fifteenth day of February, in the year, eighteen hundred and twenty one.

SECT. 37. Every bridge on any turnpike, and every toll bridge, if in whole or in part covered, shall be suitably lighted, with not less than one sufficient light for every seventy five feet, in length, of said bridge, which is covered, commencing within twenty minutes after sunset, and continuing until ten o'clock in each evening; except it be at certain seasons of the year, if any, when toll is not demanded on such bridge or turnpike.

SECT. 38. Every corporation, which shall neglect or refuse to comply with the provisions of the preceding section, shall forfeit, for each evening they shall so neglect or refuse, two dollars; to be recovered by an action of debt, brought in the county, where the bridge, or any part of it, is situated, to the use of the person who shall sue therefor. Such corporation shall also be liable, in a special action for damages, to any person injured by such neglect.

## CHAPTER 81.

## OF RAIL ROADS.

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>SECT. 1. Requisites, to petitions for rail roads.</p> <p>2. Corporation may take and hold necessary lands.</p> <p>3. Estimation and payment of damages.</p> <p>4. Limitation of applications therefor.</p> <p>5. Restriction on the right to take lands, without consent.</p> <p>6. Security for payment of damages.</p> <p>7. Damages on lands of minors and others.</p> <p>8. Manner of crossing turnpike or other road.</p> <p>9. Repair or amendment of such turnpike, or road.</p> <p>10. Penalty, for neglect.</p> | <p>SECT. 11. Limitation of actions, by turnpike corporations or towns in such cases.</p> <p>12. Highway may be altered, to accommodate rail road, in certain cases.</p> <p>13. County commissioners may decide, as to the manner of crossing turnpikes or roads.</p> <p>14. Corporation to provide temporary ways, whilst building across roads.</p> <p>15. Manner of crossing other rail roads or canals.</p> <p>16. To keep in repair all bridges built by them.</p> <p>17. Bell to be rung, at crossing ways.</p> <p>18. Sign boards at crossings.</p> <p>19. Gates, at crossings, in certain cases.</p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

SECT. 20. Penalty, for non compliance with the three preceding sections.  
21. Corporations liable for misconduct of their agents.

SECT. 22, 23. Transfer of shares.  
24. All rail road corporations subject to this chapter, unless otherwise provided.

CHAP. 81.

SECTION 1. No petition for the establishment of any rail road corporation shall be acted upon, unless the same is accompanied and supported by the report of a skilful engineer, founded on actual examination of the route and by other evidence, showing the character of the soil, the manner in which it is proposed to construct such rail road, the general profile of the surface of the country through which it is proposed to be made, the feasibility of the route, and an estimate of the probable expense of constructing the same. The petition shall set forth the places of beginning and end of the proposed rail road, the distance between the same, the general course of said rail road, together with the names of the towns through which the same, on actual survey, may be found to pass.

Requisites to petitions for rail roads.

SECT. 2. Any rail road corporation may take and hold, under the provisions contained in this chapter, so much real estate, as may be necessary for the location, construction and convenient use of their road. Such corporation may also take, remove and use, for the construction and repair of such road and its appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken: provided, that the land so taken, otherwise than by consent of the owners, shall not exceed four rods in width, unless where greater width is necessary for excavation, or embankment, or procuring stone, gravel or other materials.

Corporation may take and hold necessary lands.  
1836, 204, § 1.

SECT. 3. Such rail road corporation may purchase and use real estate, for a price to be agreed upon with the owner thereof; or the damages to be paid by such corporation for any real estate taken as aforesaid, when not agreed upon, shall be ascertained and determined by the county commissioners under the same conditions and limitations, as are by law provided, in case of damages by laying out highways. The land, so taken, shall be held, as lands taken and held for public highways.

Estimation and payment of damages.  
1836, 204, § 1.

SECT. 4. No application to such commissioners to estimate said damages shall be sustained, unless made within three years from the time of taking such real estate.

Limitation of applications therefor.  
1836, 204, § 1.

SECT. 5. No corporation shall take, as aforesaid, any meeting house, dwelling house, or public or private burying ground, without the consent of the owners.

Restriction on the right to take lands without consent.  
1836, 204, § 1.

SECT. 6. When any application, for an estimate of damages, shall be made to the county commissioners, either by such corporation or the owner of real estate, taken as aforesaid, the commissioners, if requested by any such owner, shall require the said rail road corporation to give security to the satisfaction of said commissioners, for the payment of all such damages and costs, as shall be awarded and finally determined, by jury or otherwise, for the real estate so taken; and all the right or authority of said corporation, to enter upon or use said real estate, except for making surveys, shall be suspended until they shall give such security.

Security for payment of damages.  
1836, 204, § 2.

SECT. 7. Whenever any rail road corporation shall take any real estate, as aforesaid, of any minor, insane person, or any married

Damages on lands of minors and others.  
1836, 204, § 3.

CHAP. 81.

woman, whose husband is under guardianship, the guardian of such minor or insane person, or such married woman, with the guardian of her husband, may agree and settle with said corporation, for all damages or claims by reason of the taking of such real estate, and may give valid releases and discharges therefor.

Manner of crossing turnpike or other road.  
1836, 204, § 4.

SECT. 8. Any rail road corporation may raise or lower any turnpike or other way, for the purpose of having their rail road pass over or under the same; and in such cases said corporation shall put said turnpike, or other way, as soon as may be, in as good repair and condition, as before such alteration; and they shall forthwith, on the completion of such alteration, give notice thereof in writing to the agent or clerk of the proprietors of such turnpike, or to one of the selectmen of the town, where such other way may be situated.

Repair or amendment of such turnpike or road.  
1836, 204, § 4.

SECT. 9. If said proprietors or said selectmen, respectively, require further alterations or amendments of such turnpike or other way, and give notice thereof, in writing, to the agent or clerk of such rail road corporation, and if the parties cannot agree respecting the same, either of the parties may apply to the county commissioners at their next regular meeting; who, after reasonable notice to the adverse party, shall make final determination, respecting such proposed alterations or amendments, and shall award costs in favor of the prevailing party.

Penalty, for neglect.  
1836, 204, § 4.

SECT. 10. If such rail road corporation shall, unnecessarily, neglect to make such alterations and amendments, thus determined upon by the commissioners, the said turnpike corporation, or the aggrieved town, shall be entitled to their damages to be recovered in an action on the case.

Limitation of actions, by turnpike corporations or towns, in such cases.  
1836, 204, § 4.

SECT. 11. No action shall be sustained against any rail road corporation, by the proprietors of any turnpike, or by any town, or by the owners of any private way, by reason of any obstruction, thereto occasioned by said rail road's crossing the same, unless brought within one year after the causing of such obstruction.

Highway may be altered to accommodate rail road in certain cases.  
1836, 204, § 5.

SECT. 12. If any rail road corporation shall be desirous of altering the course of any highway or town way, where it may be 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 situated, may direct; provided, the said commissioners, after due notice to the selectmen of the town where such way is situated, shall be of opinion, that such alteration will not essentially injure said highway.

County commissioners may decide, as to the manner of crossing turnpikes or roads.  
1836, 204, § 5.

SECT. 13. If any rail road corporation, before commencing the work of raising or lowering any turnpike or other way, as aforesaid, or before completing the same, shall request the direction of the county commissioners as to the mode of raising or lowering the same, it shall be the duty of said commissioners, after due notice to the parties interested, to direct the mode of performing said work, and their decision shall be final.

Corporation to provide temporary ways, whilst building across roads.  
1836, 204, § 5.

SECT. 14. Every rail road corporation, whilst employed in raising or lowering any turnpike or other way, or making any other alteration, by means of which the same may be obstructed, shall

provide, and keep in good order, suitable temporary ways, to enable travelers to avoid or pass by such obstructions. CHAP. 81.

SECT. 15. Any rail road corporation may construct and carry their rail road across, over, or under any rail road or canal, when it may be necessary in the construction of the same; and, in such cases, said corporation shall so construct their rail road crossings, as not unnecessarily to impede the travel or transportation upon the rail road, or canal, so crossed. Said corporation shall be liable, in an action on the case, for the damages occasioned to any corporation or party injured, by reason of said crossing. Manner of crossing other rail roads or canals. 1836, 204, § 6.

SECT. 16. Every rail road corporation shall maintain and keep in repair all bridges, with their abutments, which such corporation shall construct, for the purpose of enabling their road to pass over or under any turnpike road, canal, highway or other way. Corporation shall support all bridges built by them.

SECT. 17. Every rail road corporation shall cause a bell, of at least thirty five pounds in weight, to be placed on each locomotive engine passing upon their road; and the said bell shall be rung, at the distance of at least eighty rods from the place where said road crosses any turnpike, highway or town way, upon the same level with the rail road; and shall be kept ringing, until the engine shall have crossed such turnpike or way. Bell to be rung at crossing ways. 1836, 204, § 7.

SECT. 18. Every rail road corporation shall cause boards to be placed, well supported by posts, or otherwise, and constantly maintained across each turnpike, highway or town way, where it is crossed by the rail road, upon the same level therewith; the said posts and boards to be of such height, as shall be easily seen by travelers without obstructing the travel; and on each side of said boards, the following inscription shall be printed in plain legible letters of at least the length of nine inches each, RAIL ROAD CROSSING. LOOK OUT FOR THE ENGINE WHILE THE BELL RINGS. Sign boards at crossings. 1836, 204, § 7.

SECT. 19. If the selectmen of any town, wherein any turnpike, highway or town way, so crossed by any rail road, is situated, shall be of opinion, it is necessary for public security, that gates should be erected across the rail road, and that an agent should be stationed to open and close said gates, whenever any engine passes, the said selectmen may, by a writing delivered to the clerk or a general agent of such corporation, request said corporation to erect such gates, and station an agent, as aforesaid; and, if said corporation shall neglect or refuse so to do, the said selectmen may apply to the county commissioners to decide upon the reasonableness of such request; and if said commissioners, after due notice and hearing the parties, shall decide, that the erection of such gates, and providing such agent, are necessary for the security of the public, said rail road corporation shall comply with said decision and pay the costs of the application; but if the commissioners shall be of the opinion, that the establishment of said gates and agent is not required, as aforesaid, the said selectmen shall be liable to pay all the costs of their application. Gates at crossings, in certain cases. 1836, 204, § 7.

SECT. 20. If any rail road corporation shall unreasonably neglect or refuse, to comply with the requisitions contained in the three preceding sections, they shall forfeit for every such neglect or refusal, to the use of the state, a sum, not exceeding five hundred Penalty for non compliance with the three preceding sections. 1836, 204, § 8.

**CHAP. 81.**

dollars, to be recovered by indictment; and, if any agent, stationed as aforesaid, shall neglect to open or close said gates, for the safe passing of the engine on the rail road, or the traveler on the turnpike, high way or town way, he shall, for every such neglect, forfeit to the use of the state a sum; not exceeding fifty dollars, to be recovered as aforesaid.

Corporations liable for misconduct of their agents. 1836, 204, § 8.

**SECT. 21.** Every rail road corporation shall be liable for all damages sustained by any person, in consequence of any neglect of the provisions of the foregoing section, or of any other neglect of any of their agents, or by any mismanagement of their engines, in an action on the case, by the person sustaining such damages.

Transfer of shares. 1836, 204, § 9.

**SECT. 22.** The shares in the capital stock of any rail road corporation shall be deemed personal estate; and they may be transferred by any conveyance in writing, recorded either by the treasurer, in books to be kept in his office, or by an officer duly authorized by the directors, in books to be kept at such other place, as they may appoint within the state. When recorded in any other place, they shall, within ten days thereafter, be also recorded in the said books kept by the treasurer. No conveyance of any such shares shall be valid, against any other persons than the grantors or their representatives, unless so recorded.

Same subject. 1836, 204, § 9.

**SECT. 23.** On making any such transfer, the certificates of the shares transferred shall be given up and canceled, and new certificates shall be issued to the purchasers, unless some attachment of such shares shall have been made previous to such transfer; in which case, the issuing of said certificates shall be suspended, until said attachments shall be dissolved, or the shares sold by process of law.

All rail road corporations subject to this chapter, unless otherwise provided.

**SECT. 24.** All rail road companies, that have been, or shall be incorporated under the authority of this state, shall have all the powers and privileges, and be subject to all the duties, liabilities and other provisions contained in this chapter, respecting such corporations, unless inconsistent with the express provisions of their charters.

**CHAPTER 82.**

**OF AGRICULTURAL AND HORTICULTURAL SOCIETIES.**

- SECT. 1.** Annual payment from the state, to agricultural societies.
2. Limitation of amount.
  3. Condition of such payment.
  4. Premiums to be offered by such societies.

- SECT. 5.** Application of moneys, and annual account.
- 6, 7. Requisites, on applications for premiums.
  8. Annual statement by the secretary of state.
  9. Legislative rights reserved.

Annual payment from the state to agricultural societies. 1832, 24, § 1.

**SECTION 1.** The treasurer of the state is hereby authorized and directed to pay to the treasurer of any agricultural society, or any agricultural or horticultural society, whenever any such treasurer