

HOUSE.....No. 47.

[Reported by the Committee on Railways and Canals.]

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Thirty-
Seven.

AN ACT

Concerning Rail-road Corporations.

BE *it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :*

1 SEC. 1. If any rail-road corporation which has
2 been or may be established, shall think proper to alter
3 the course of any turnpike-road, canal, or feeder to any
4 canal, where the same interferes with the convenient
5 location of their rail-road, they may, with the consent
6 of the turnpike or canal corporation, alter the same ac-
7 cordingly.

1 SEC. 2. Whenever a turnpike-road, or any part

2 thereof, shall interfere with the convenient location of
3 any rail-road, the turnpike corporation may, in pursu-
4 ance of a vote therefor at a meeting called for that
5 purpose, assign and transfer their franchise to the rail-
6 road corporation, as to the whole or any part of their
7 turnpike-road, upon such terms as shall be agreed
8 upon between them; and thereafter all the rights and
9 duties of such turnpike corporation, so far as the same
10 relate to the part of the road so assigned, shall cease
11 and be discontinued; and the said rail-road corpora-
12 tion may locate their road upon the same ground, or
13 any part thereof, in the same manner as upon any
14 other parts of their route.

1 SEC. 3. No turnpike-road shall be assigned or used
2 for the location of any rail-road, as provided in the
3 preceding section, without the consent in writing of
4 the county commissioners of the county in which said
5 turnpike, or the part to be assigned, is situated: *pro-*
6 *vided, however,* that if the said turnpike, or the part
7 to be assigned, shall be located in two or more coun-
8 ties, then the common pleas in either of said counties
9 shall have the same jurisdiction and power in the
10 premises, as are by this section given to the commis-
11 sioners, where the road to be assigned is situated in
12 but one county.

1 SEC. 4. When the land or other property of any per-
2 son is taken, under the provisions of either of the first
3 two sections of this act, he shall be entitled to damages,
4 to be estimated by the commissioners of the county
5 where said property is situated, leaving to the parties
6 respectively the right of appeal, as is provided in the
7 fifty-seventh section of the thirty-ninth chapter of the
8 Revised Statutes.

1 SEC. 5. The annual report, required by the eighty-
2 second section of the thirty-ninth chapter of said Re-
3 vised Statutes, shall specify under distinct heads, the
4 total amount of capital paid in, the total amount of
5 expenditures during the past year,—specifying the
6 amount of repairs on the road, the amount of repairs
7 on the engines and cars, and the amount of other mis-
8 cellaneous expenses; said report shall also state the
9 total amount of receipts during the past year,—speci-
10 fying the amount received for the transportation of
11 passengers, the amount for the transportation of mer-
12 chandize, and the amount of other miscellaneous re-
13 ceipts; also the amount divided during the past year,
14 and the rate per cent. of such dividends.

1 SEC. 6. In addition to the annual report recog-
2 nized in the preceding section, said corporation shall,
3 when they shall have completed and opened their road
4 for use, make a report under oath, to the Legislature,
5 stating the total amount of capital paid in, specifying
6 the amount expended in constructing their road, the
7 amount expended for engines and cars, the amount
8 expended for depots, car-houses and other buildings,
9 and the amount of all other miscellaneous expenses.
10 Said report shall also state the length of the road, the
11 number of planes on said road, with their inclination
12 per mile, the greatest curvature on said road, the av-
13 erage width of the grade, and the manner in which
14 the rails are supported.

1 SEC. 7. Whenever any engineer, fireman, or other
2 agent of any rail-road corporation shall be guilty of
3 negligence or carelessness, whereby an injury is done
4 to any person or corporation, he shall upon conviction
5 be punished by imprisonment in the county jail for a

6 term not exceeding twelve months, or by a fine not
7 exceeding one thousand dollars: *provided*, that nothing
8 contained in this section shall exempt the said corpo-
9 ration from an action in damages to any person or
10 corporation sustaining said injury.

1 SEC. 8. No rail-road corporation shall run, or per-
2 mit to be run upon their road, any train of cars moved
3 by steam power, for the transportation of passengers,
4 unless there shall be placed upon the train one trusty
5 and skilful brakeman to every two cars in said train.

1 SEC. 9. When any injury is done to a building or
2 other property of any person or corporation, by fire
3 communicated by a locomotive engine of any rail-road
4 corporation, the said rail-road corporation shall be
5 held responsible in damages to the person or corpora-
6 tion so injured, unless said corporation shall show that
7 they have used all due caution and diligence, and
8 employed suitable expedients to prevent such injury.