

MAINE STATE LEGISLATURE

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NEW DRAFT.

Sixty-Seventh Legislature.

HOUSE.

No. 234.

STATE OF MAINE.

**IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND NINETY-FIVE.**

AN ACT to incorporate the Portland and Cape Elizabeth
Railway Company, and to authorize the construction of the
same across navigable tide waters.

*Be it enacted by the Senate and House of Representatives
in Legislature assembled, as follows :*

SECTION 1. Jacob S. Winslow, Stephen R. Small,
2 Albert D. Boyd, James H. Boyd and F. Coleman Boyd,
3 their associates, successors and assigns, are hereby con-
4 stituted a corporation by the name of Portland and Cape
5 Elizabeth Railway Company, with authority to construct,
6 maintain and operate by electricity or animal power, a
7 street railway with convenient single or double tracks,
8 side tracks, switches or turnouts, with all necessary or
9 convenient lines of poles, wires, appliances, appurtenances,

10 conduits and electric plants for motive power, beginning
11 at the intersection of Cross and Free streets, in the city
12 of Portland, and running thence on such one of the follow-
13 ing three routes as may be fixed and determined by the
14 municipal officers of the city of Portland within fifteen
15 days after the approval of this act, to wit:—through
16 Middle street to Union street thence through Union street
17 to the intersection of Union street with Commercial street,
18 thence through Commercial street to the Portland bridge
19 by way of Commercial street and the street, road or open
20 way running through the grounds of the Boston and Maine
21 Railroad Company, or through and over such other
22 grounds and ways as the said Portland and Cape Elizabeth
23 Railway Company may determine and so on as hereinafter
24 mentioned; or through Cross street to the intersection of
25 Cross street with Commercial street, thence through Com-
26 mercial street by the route mentioned above to the Portland
27 bridge and so on as hereinafter mentioned; or through Free
28 street to the intersection of Free street with Centre street,
29 thence through Centre street to Commercial street, thence
30 through Commercial street by the route mentioned above
31 to Portland bridge, and so on as hereinafter provided;
32 but if the municipal officers of the city of Portland do not
33 within fifteen days after the approval of this act designate
34 one of said three routes for said railway company then and
35 thereafter said railway company shall have authority to
36 construct, maintain, and operate its railways and plant
37 as mentioned above beginning at the intersection of
38 Cross and Free streets in the city of Portland and
39 running thence through Cross street to the intersection of
40 Cross street with Commercial street, thence through Com-
mercial street to the Portland bridge, by way of Commer-

42 cial street, and the street, road or open way running
43 through the grounds of the Boston and Maine Rail-
44 road Company, or through and over such other
45 grounds and ways as the company may determine, thence
46 upon, over, and across the land, flats and navigable
47 tide waters on the easterly side of and adjoining said
48 Portland bridge, and upon and over the draw and certain
49 other parts of said bridge as herein authorized, to and
50 into the town of Cape Elizabeth; and said Portland and
51 Cape Elizabeth Railway Company is hereby further au-
52 thorized to construct, maintain and operate by electricity
53 or animal power a street railway, with convenient single
54 or double tracks, side tracks, switches or turnouts, with
55 all necessary or convenient lines of poles, wires, appli-
56 ances, and electric plants for motive power in and through
57 the said town of Cape Elizabeth, upon such streets, roads
58 and highways in said town, as may, from time to time, be
59 fixed and determined by the municipal officers of said
60 town, and assented to in writing by said Portland and
61 Cape Elizabeth Railway Company. Said corporation
62 shall have authority to construct, maintain and oper-
63 ate said railway over and upon any lands where the
64 land damages have been mutually settled between
65 said corporation and the owners thereof. The writ-
66 ten assent of said corporation to any vote of said
67 town, or of the municipal officers thereof, prescribing from
68 time to time, the routes of such railway, shall be filed
69 with the clerk of said town. Said railway corporation
70 shall have the power from time to time to fix such rates
71 of compensation for transporting persons or property as
72 it may think expedient, and generally shall have all the
73 powers, and be subject to all the liabilities of corpora-

74 tions, as set forth in the forty-sixth chapter of the Revised
75 Statutes. Said corporation may change the location of
76 said railroad at any time, by first obtaining the written
77 consent of the municipal officers of said city of Portland
78 and said town of Cape Elizabeth, and said county com-
79 missioners with reference to said county way and bridge,
80 respectively, and make additional locations subject to the
81 foregoing provisions and conditions, but shall not
82 be compelled to change a location once estab-
83 lished as above, within twenty-five years, except-
84 ing upon and over said Portland bridge, as here-
85 in provided. The original location of the route in
86 the city of Portland and the town of Cape Elizabeth
87 when granted, shall be for the term of twenty-five years.
88 The same may be renewed from time to time for a term not
89 exceeding fifty years at any one time, by said municipal
90 officers, upon such terms as they may deem expedient.
91 No such renewal shall be granted prior to two years
92 before the expiration of the location then established.
93 No location in the city of Portland and the town of Cape
94 Elizabeth shall be granted or renewed except upon
95 reasonable prior notice to all parties interested. If at
96 the expiration of any of said terms, the use of the streets,
97 roads or highways occupied by said company's railroad
98 is granted by the municipal officers of said city or town
99 to any other corporation or person, it shall be on condi-
100 tion that such corporation or person shall purchase of
101 said company all its property of every description in
102 necessary use for the purposes of said railroad upon
103 the terms that may be agreed upon by the parties
104 or determined by persons selected by them, and
105 if they are unable to agree, the same shall be deter-

106 mined by three disinterested persons appointed by a jus-
 107 tice of the supreme judicial court on application of either
 108 party, and hearing thereon. Said appraisers shall be
 109 sworn, give notice of the time and place of meeting to
 110 examine and appraise said property, and shall make to
 111 each party a written award, and their services shall be
 112 paid in equal proportions by the parties. If the munici-
 113 pal officers of said city or town determine that, at the
 114 expiration of any of said terms, the use of the streets,
 115 roads or highways occupied by said company's railroad
 116 shall be granted to any person or corporation for the
 117 purposes of a horse or electric railroad, on the payment
 118 of any sum of money or in any other manner, said com-
 119 pany shall have the preference, and such use shall be
 120 granted or renewed to said company, provided it will
 121 pay as much therefor as any other person or corporation.

SECT. 2. The municipal officers of said town and city,
 2 and the county commissioners with respect to said bridge,
 3 shall have the power, at all times, to make all such regu-
 4 lations as to form of rail, paving between and for eighteen
 5 inches outside of rails, grade of road bed, appliances and
 6 safeguards, rate of speed, and removal of snow and ice
 7 from the streets, roads and highways, by said company,
 8 as the public convenience and safety may require. Said
 9 corporation shall keep and maintain in repair such por-
 10 tions of the street, town or county roads and bridge as
 11 shall be occupied by the tracks of its railway and for a
 12 space of eighteen inches outside of each rail and shall make
 13 all other changes and repairs of said streets and roads as
 14 may be rendered necessary by the occupation of the same
 15 by said railway.

SECT. 3. Said corporation may erect and construct in
2 such manner as shall be approved by said county commis-
3 sioners a way and bridge for its tracks on the easterly side
4 of and adjoining said Portland bridge with an open draw
5 therein for the passage of vessels, of the same width as
6 the draw of said Portland bridge, and may, under such
7 regulations as said county commissioners shall from time
8 to time prescribe, lay its tracks on and over the draw of
9 said Portland bridge and upon and over the easterly side
10 of said Portland bridge for such space or distance from
11 the Portland end of said draw as said county commission-
12 ers shall prescribe for entering upon and leaving the same,
13 and upon and over the easterly side of said bridge and
14 highway from the Cape Elizabeth end thereof to said draw
15 under such requirements as said county commissioners
16 may from time to time prescribe, provided, that, after a
17 period of five years from the construction of said road
18 upon the Cape Elizabeth end of said bridge said county
19 commissioners may upon notice and hearing, and without
20 right of appeal, determine and prescribe that said cor-
21 poration shall remove its tracks from the Cape Elizabeth
22 end of said bridge or any part thereof excepting said draw
23 and such space from the southerly end thereof as said
24 county commissioners shall prescribe for entering upon
25 and leaving the same, and said corporation shall thereupon
26 remove its said tracks and construct its own bridge and
27 way upon the easterly side of said Portland bridge as
28 herein authorized; and provided further that if, at any
29 time, said county commissioners or any court of competent
30 jurisdiction shall determine that said Portland bridge and
31 way shall be widened by the county, the expense thereof

32 to the extent of eight feet in width for land damage, con-
 33 struction and repairs shall be borne by said corporation.

SECT. 4. Said corporation shall at all times erect and
 2 construct and maintain all such fences, partitions and
 3 other protections between its bridge and tracks and the
 4 highway over and upon said bridge as said county com-
 5 missioners shall prescribe for the safety of the public in
 6 the use of said highway and bridge, and shall repair and
 7 pay all wear and damage of said Portland bridge and draw
 8 and highway caused by its use of the same and all damage
 9 and expense which said county may thereby suffer or
 10 incur. And in no case shall the county of Cumberland
 11 bear, assume or share any expenditure which is caused or
 12 necessitated by the location, construction, or operation of
 13 said road.

SECT. 5. Said Portland and Cape Elizabeth Railway
 2 Company is hereby authorized to issue bonds in such
 3 amounts and on such time and terms as it may from time
 4 to time determine for any money which it may borrow,
 5 and secure the same by mortgages of its franchises, rail-
 6 ways and property. All bonds which shall be issued by
 7 said company shall be binding and legal, notwithstanding
 8 such bonds may be negotiated and sold by said company
 9 or its agents at less than their par value.

SECT. 6. Said Portland and Cape Elizabeth Railway
 2 Company shall have power to aid, or invest its funds, in
 3 the construction, maintenance or carrying on of summer
 4 hotels, summer or shore resorts, or amusements at such
 5 resorts.

SECT. 7. The capital stock of said corporation shall not
 2 exceed five hundred thousand (\$500,000) dollars, to be
 3 divided into shares of one hundred (\$100) dollars each,

4 provided however, that if the said capital stock is found by
5 the directors of said corporation to be insufficient for car-
6 rying out the purposes and powers of said corporation,
7 then said corporation may increase said capital stock from
8 time to time to any amount, for the purposes provided for in
9 this act. Such increase however, must be assented to by
10 vote, either in person or by proxy, of two-thirds in
11 amount of all the stockholders, at a meeting thereof called
12 by the directors for that purpose.

SECT. 8. Said corporation shall be liable for any loss
2 or damage which any person may sustain by reason of any
3 neglect or misconduct of its agents or servants, or by
4 reason of any defect in said streets or roads occupied by
5 said railway if such defect arise from neglect or misconduct
6 of the corporation, its servants or agents. Said corpora-
7 tion shall be liable for all damages caused by its current to
8 water and gas pipes.

SECT. 9. If any person shall wilfully or maliciously
2 obstruct such corporation in the use of its road, tracks or
3 property, or the passage of cars or carriages of said cor-
4 poration thereon, such person and all who aid and abet
5 therein, shall be punished by a fine not exceeding two hun-
6 dred dollars, or may be imprisoned in the county jail for a
7 period not exceeding sixty days.

SECT. 10. Said corporation may lease, purchase, re-
2 ceive, let, dispose of, or hold such real and personal estate
3 and motive power as may be necessary and convenient for
4 the purposes and management of said railway and power
5 plant and station.

SECT. 11. Said railway shall be constructed and main-
2 tained in such form and manner and with such rails and
3 other appliances as may be deemed necessary by the

4 corporation and may be approved by said city, town and
5 county authorities respectively, and upon such grades as
6 the municipal officers of said city or town and the county
7 commissioners of Cumberland county with respect to said
8 county way and bridge respectively may direct ; and when-
9 ever in the judgment of said corporation it shall be deemed
10 necessary to alter the grade of any street, town or county
11 road, said alteration may be made at the expense of said
12 corporation, provided the same shall be assented to in
13 writing by the municipal officers of said city or town and
14 the county commissioners of Cumberland county, with
15 respect to said county way and bridge respectively. If
16 the tracks of said corporation's railway cross any other
17 railway of any kind in either said city or town and a dis-
18 pute arises in any way in regard to the manner of crossing,
19 the board of railroad commissioners of the state, shall,
20 upon hearing, decide and determine in writing, in what
21 manner the crossing shall be made and it shall be con-
22 structed accordingly.

SECT. 12. The directors of said company shall have
2 absolute power and authority to issue or transfer stock to
3 any person or corporation in consideration of any claim or
4 demand against said Portland and Cape Elizabeth Railway
5 Company, or construction work done for said company,
6 or in payment for any property, right or privilege granted
7 to the company, and such stock may be issued in such
8 amounts and on such terms as said board of directors may
9 from time to time determine, and such stock shall be the
10 same as if actual cash had been paid therefor, and shall be
11 full paid and non-assessable stock.

SECT. 13. Said corporation may change the location of
2 any of its railways by first obtaining the consent of the
3 municipal officers of said city or town or of said county
4 commissioners with respect to said county way and bridge,
5 and may make additional locations, subject to the foregoing
6 provisions and conditions of this charter.

SECT. 14. Nothing in this act shall be construed to
2 prevent the proper authorities of said city, town, or coun-
3 ty from entering upon and temporarily taking up the soil,
4 paving, or planking in any city, town, or county road
5 occupied by said railway or the tracks, planking, and tim-
6 bers of said railroad and its way across said tide waters
7 for any purpose for which said town, city, or county may
8 now lawfully take up the same, and for which said county
9 authorities may deem it necessary to take up the same for
10 purposes of reconstruction or repairs.

SECT. 15. No other corporation or person shall be per-
2 mitted to construct or maintain any railway for similar
3 purposes over the same streets, roads or ways, that may be
4 lawfully occupied by this corporation; but any person or
5 corporation lawfully operating any street railway to any
6 point to which this corporation's tracks extend, may enter
7 upon, connect with and use the same on such terms and in
8 such manner as may be agreed upon between the parties.

SECT. 16. Said railway corporation shall have all the
2 rights and be subject to all the liabilities of street railways
3 under the laws of this state, except so far as this act is
4 inconsistent therewith or makes provisions in regard to any
5 special subject, power or matter.

SECT. 17. Said Portland and Cape Elizabeth Railway
2 Company is hereby authorized to lease or sell its railways,
3 property and franchises to any other connecting company

4 or companies, or to unite and consolidate its stock, prop-
 5 erty, franchises and railways with those of any connecting
 6 company or companies, or to purchase, or take a lease of,
 7 the railways, property and franchises of any other con-
 8 necting company or companies, and, to issue mortgage
 9 bonds in payment therefor; and all other connecting com-
 10 panies are hereby authorized to lease or sell their rail-
 11 ways, property and franchises to this company, or to buy,
 12 or to take a lease of the railways, property and franchises
 13 of this company, or to unite or consolidate their stock,
 14 property, franchises and railways with those of this com-
 15 pany.

SECT. 18. Said corporation shall not be required to
 2 run cars upon its road during the winter season, when the
 3 line of the road is blocked with snow and ice, or when the
 4 convenience or wants of the public do not demand it,
 5 except in the city of Portland, and from said Portland to
 6 the village of Willard in said town of Cape Elizabeth.

SECT. 19. In the erection and maintenance of its poles,
 2 posts, lamps and wires, said corporation shall be subject to
 3 the general laws of the state, regulating the erection of
 4 posts and lines for the purposes of electricity.

SECT. 20. The first meeting of said corporation may
 2 be called by one of the corporators giving written notice
 3 to the others, of the time and place of the meeting, at least
 4 seven days before the meeting.

SECT. 21. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 28, 1895. }

Reported by Mr. McCULLOUGH of Calais, from Committee on Railroads, Telegraphs and Expresses, and ordered printed under house rules.

W. S. COTTON, *Clerk.*