

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1836.

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1836.

SIXTEENTH LEGISLATURE.

No. 57.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT
HUNDRED AND THIRTY-SIX.

AN ACT to establish the Maine, New Hampshire,
and Massachusetts Railroad Corporation.

SECT. 1. *Be it enacted by the Senate and*
2 House of Representatives in Legislature as-
3 ssembled, That Joseph Adams, Mason Green-
4 wood, Oliver B. Dorrance, Charles M. Davis,
5 William W. Woodbury, Nathan Winslow,
6 Jedediah Jewett, Henry Smith, John Warren,
7 Bryce M. Edwards, Daniel T. Pierce, Noah
8 Nason, Toppan Robie, Joseph M. Gerrish,
9 James Irish, Alexander McLellan, Nathan
10 Elden, Joseph Woodman, Abijah Usher, Jo-

11 seph Hobson, Ellis B. Usher, Nathaniel J.
12 Miller, Edmund Warren, William Cook, Isaac
13 Dearing, Jeremiah Roberts, Porter Gilman,
14 Jonathan Downing, Ivory Hall, Nathaniel Far-
15 num, John Griffin, Joseph Emerson, Jeremiah
16 Bradbury, William B. Holmes, Abiel Hall,
17 David Hall, Alvah Conant, Jeremiah Good-
18 win, Benjamin J. Herrick, John Powers,
19 Nicholas E. Paine, John T. Paine, Arthur
20 McArthur, Charles E. Bartlett, Thomas B.
21 Parks, Job Harris, John B. Wood, Frederick
22 Cogswell, their associates, successors and assigns
23 be, and they are hereby made a body politic and
24 corporate, by the name of "*the Maine, New*
25 *Hampshire and Massachusetts Railroad*
26 *Corporation,*" and by that name shall have all
27 the powers, privileges and immunities, and be
28 subject to all the duties and liabilities provided
29 and prescribed in an Act passed on the sixteenth
30 of February last, entitled "An Act concerning
31 Corporations," and an Act defining certain rights
32 and duties of Railroad Corporations, passed the
33 first of March instant, and shall be and hereby
34 are invested with all the powers, privileges and

35 immunities, which are or may be necessary to
36 carry into effect the purposes and objects of this
37 Act as hereinafter set forth. And the said
38 Corporation are hereby authorized and empow-
39 ered to locate, construct, and finally complete,
40 alter and keep in repair a Railroad with one or
41 more set of rails or tracks, with all suitable
42 bridges, viaducts, turnouts, culverts, drains, and
43 all other necessary appendages, from some point
44 or place in the city of Portland, through the
45 village of Saccarappa in the town of Westbrook,
46 thence into the village of Gorham, thence
47 through the town of Buxton to Saco River, and
48 to cross said River at some place as hereinafter
49 provided; thence through the towns of Hollis
50 and Waterborough to Alfred village, thence
51 through the towns of Sanford, North Berwick and
52 Berwick to the village of Great Falls in Somers-
53 worth and to unite with the Railroad from said
54 Great Falls through New Hampshire to Massa-
55 chusetts line, in such manner and form as they
56 shall deem to be most expedient. And for this
57 purpose said Corporation shall have the right to
58 take and hold so much of the land, and other

59 real estate of private persons, as may be neces-
60 sary for the location, construction and conven-
61 ient operation of their Railroad; and they shall
62 also have the right to take, remove and use for
63 the construction and repair of said Railroad and
64 appurtenances, any earth, gravel, stone, timber
65 or other materials, on or from the land so taken.
66 *Provided, however,* that said land so taken,
67 shall not exceed four rods in width, except
68 where greater width is necessary for the purpose
69 of excavation or embankment: *And provided,*
70 *also,* that in all cases, said Corporation shall
71 pay for such lands, estate or materials so taken
72 and used, such price as they and the owner, or
73 respective owners thereof may mutually agree
74 on; and in case said parties shall not otherwise
75 agree, then said Corporation shall pay such
76 damages as shall be ascertained and determined
77 by the County Commissioners for the County
78 where such land or other property may be situ-
79 ated, in the same manner and under the same
80 conditions and limitations, as are by law provid-
81 ed in the case of damages by laying out of
82 highways. And the land so taken by said Cor-

83 poration shall be held as lands taken and held
84 for public highways. And no application to
85 said Commissioners to estimate said damages
86 shall be sustained, unless made within three
87 years from the time of taking such land or other
88 property; or when it has already been taken,
89 within one year from the time of passing this
90 Act; and in case such Railroad shall pass through
91 any wood-lands or forests, the said Company
92 shall have the right to fell or remove any trees
93 standing therein, within four rods from such
94 road, which by their liability to be blown down
95 or from their natural falling might obstruct or
96 impair said Railroad, by paying a just compen-
97 sation therefor, to be recovered in the same
98 manner as is provided for the recovery of other
99 damages in this bill.

SECT. 2. *Be it further enacted,* That
2 said Railroad shall pass over Saco River in such
3 place at or near the falls at the Bar Mills, or at
4 or near the falls at Salmon Falls or at some in-
5 termediate point between, as said Commission-
6 ers or a majority of them shall determine, and
7 said Corporation is hereby authorized and em-
8 powered to locate, construct and finally com-

9 plete, alter and keep in repair a Branch or
10 Branches of said Railroad from either or both
11 of said Falls to said principal Railroad, which
12 may unite therewith and become a part thereof.

SECT. 3. *Be it further enacted,* That the
2 capital stock of said Corporation shall consist of
3 not less than five thousand, nor more than
4 six thousand shares; and the immediate gov-
5 ernment and direction of the affairs of said Cor-
6 poration shall be vested in seven, nine or thirteen
7 Directors, who shall be chosen by the members
8 of said Corporation, in the manner hereinafter
9 provided, and shall hold their offices until others
10 shall have been duly elected and qualified to
11 take their places, a majority of whom shall form
12 a quorum for the transaction of business ; and
13 they shall elect one of their number to be the
14 President of the Board, who shall also be the
15 President of the Corporation; and shall have
16 authority to choose a Clerk who shall be sworn
17 to the faithful discharge of his duty, and a
18 Treasurer, who shall give bonds to the Corpo-
19 ration, with sureties to the satisfaction of the Di-
20 rectors, in a sum of not less than thirty thousand
21 dollars, for the faithful discharge of his trust.

22 And for the purpose of receiving subscriptions to
23 the said stock, books shall be opened under
24 the direction of the persons named in the first
25 section of this Act, at such time and in such
26 places in the shire-towns in the several Counties
27 of York, Cumberland and Oxford, in this State,
28 and in the towns of Somersworth, Dover, New
29 market, and Exeter in New Hampshire, and
30 Haverhill and Andover, and the city of Boston
31 in Massachusetts, and elsewhere as they shall
32 appoint, to remain open for ten successive days,
33 of which time and place of subscription public
34 notice shall be given in some newspaper printed
35 in Portland, Great Falls, Dover, Haverhill,
36 Exeter and Boston, twenty days at least, pre-
37 vious to the opening such subscription, and in
38 case the amount subscribed shall exceed six
39 thousand shares, the same shall be distributed
40 among all the subscribers, according to such
41 regulations, as the persons having charge of the
42 opening of the subscription books shall prescribe
43 before the opening of said books. And any
44 seven of the persons named in the first section
45 of this Act, are hereby authorized to call the
46 first meeting of said Corporation by giving notice

47 in one or more newspapers published in the
48 towns and cities above named, of the time and
49 place, and the purpose of such meeting, at least
50 twenty days before the time mentioned in such
51 notice.

SECT. 4. *Be it further enacted,* That the
2 President and Directors for the time being, are
3 hereby authorized and empowered by them-
4 selves or their agents, to exercise all the pow-
5 ers herein granted to the Corporation, for the
6 purpose of locating, constructing, and completing
7 said Railroad, and for the transportation of per-
8 sons, goods and property of all descriptions, and
9 all such power and authority for the manage-
10 ment of the affairs of the Corporation, as may
11 be necessary and proper to carry into effect the
12 objects of this grant; to purchase and hold land,
13 materials, engines and cars, and other necessary
14 things, in the name of the Corporation for the
15 use of said road, and for the transportation of
16 persons, goods and property of all descriptions;
17 to make such equal assessments from time to
18 time, on all the shares in said Corporation, as
19 they may deem expedient and necessary, in the
20 execution and the progress of the work, and di-

21 rect the same to be paid to the Treasurer of the
22 Corporation. And the Treasurer shall give
23 notice of all such assessments; and in case any
24 subscriber or stockholder shall neglect to pay
25 any assessment on his share or shares for the
26 space of thirty days after such notice is given as
27 shall be prescribed by the by-laws of said Cor-
28 poration, the Directors may order the Treasurer
29 to sell such share or shares, at public auction,
30 after giving such notice as may be prescribed as
31 aforesaid, to the highest bidder, and the same
32 shall be transferred to the purchaser, and such
33 delinquent subscriber or stockholder shall be
34 held accountable to the Corporation for the bal-
35 ance, if his share or shares shall sell for less than
36 the assessments due thereon, with the interest,
37 and costs of sale; and shall be entitled to the
38 overplus if his share or shares shall sell for more
39 than the assessments due, with interest and costs
40 of sale: *Provided however*, That no assessments
41 shall be laid upon any shares in said Corporation
42 of a greater amount in the whole than one hun-
43 dred dollars.

SECT. 5. *Be it further enacted*, That the
2 said Corporation shall have power to make, or-

3 dain and establish all necessary by-laws and
4 regulations, consistent with the Constitution and
5 the laws of this State, for their own government,
6 and for the due and orderly conducting of their
7 affairs, and the management of their property.

SECT. 6. *Be it further enacted*, That a toll
2 be and hereby is granted and established, for the
3 sole benefit of said Corporation, upon all pas-
4 sengers, and property of all descriptions, which
5 may be conveyed or transported upon said road;
6 at such rates per mile, as may be agreed upon
7 and established from time to time by the Di-
8 rectors of said Corporation. The transporta-
9 tion of persons and property—the construction
10 of wheels, the form of cars and carriages, the
11 weights of loads, and all other matters and things
12 in relation to the use of said road shall be in
13 conformity with such rules, regulations and pro-
14 visions as the Directors shall from time to time
15 prescribe and direct: *Provided however*, That
16 if at the expiration of twelve years from and
17 after the completion of said road, the net income
18 or receipts from tolls and other profits, taking
19 the twelve years aforesaid as the basis of calcu-
20 lation, shall have amounted to more than twelve

21 per cent. per annum upon the cost of the road
22 and incidental expenses, the Legislature may
23 alter and reduce the rate of tolls, and other pro-
24 fits, so that the net income shall not exceed
25 twelve per cent. for the next twelve years, cal-
26 culating the amount of transportation on the road
27 to be the same, as in the twelve preceding years,
28 and at the expiration of every twelve years
29 thereafter, the same proceedings may be had.
30 *And further provided*, That the Legislature
31 shall not at any time, so reduce the tolls and
32 other profits, as to produce less than twelve per
33 centum upon the cost of said Railroad, taking
34 the basis of calculation as aforesaid, without the
35 consent of said Corporation.

SECT. 7. *Be it further enacted*, That the
2 Legislature may authorize any other company
3 or companies to connect any other Railroad or
4 Railroads with the Railroad of said Corpora-
5 tion at any points of intersection on the route of
6 said Railroad. And said Corporation shall re-
7 ceive and transport all persons, goods and pro-
8 perty, of all descriptions, which may be carried
9 and transported, to the Railroad of said Corpo-
10 ration, on such other Railroads as may be here-

11 after authorized to be connected therewith, at
12 the same rates of toll and freight, as may be pre-
13 scribed by said Corporation, so that the rates of
14 freight and toll on such passengers, goods, and
15 other property as may be received from such
16 other Railroads, so connected with said Rail-
17 road as aforesaid, shall not exceed the general
18 rates of freight and toll on said Railroad receiv-
19 ed for freight and passengers, &c. at any of the
20 depots of said Corporation.

SECT. 8. *Be it further enacted,* That the
2 Directors of said Corporation for the time being
3 are hereby authorized to erect toll houses, es-
4 tablish gates, appoint toll gatherers and demand
5 toll on the road, when completed, and upon
6 such parts thereof as shall from time to time be
7 completed.

SECT. 9. *Be it further enacted,* That when
2 said Corporation shall take any land, or other
3 estate, as aforesaid, of any infant, person *non*
4 *compos mentis*, or feme covert, whose husband
5 is under guardianship, the guardian of such in-
6 fant, or person *non compos mentis*, and such
7 feme covert, with the guardian of her husband
8 shall have full power and authority to agree and

9 settle with said Corporation, for damages, or
10 claims for damages, by reason of taking such land
11 and estate aforesaid, and give good and valid
12 releases and discharges therefor.

SECT. 10. *Be it further enacted*, That if
2 any person shall wilfully and maliciously, or
3 wantonly and contrary to law obstruct the pas-
4 sage of any carriage on said Railroad, or in any
5 way spoil, injure or destroy said Railroad, or
6 any part thereof, or any thing belonging thereto,
7 or any material or implements to be employed
8 in the construction or for the use of said road,
9 he, she, or they, or any person or persons, as-
10 sisting, aiding, or abetting such trespass, shall
11 forfeit and pay to said Corporation for every
12 such offence, treble such damages as shall be
13 proved before the Justice, Court or Jury, be-
14 fore whom the trial shall be had, to be sued for
15 before any justice, or in any Court proper to try
16 the same, by the Treasurer of the Corporation,
17 or other officer, whom they may direct, to the
18 use of said Corporation. And such offender or
19 offenders shall be liable to indictment by the
20 Grand Jury of the County, within which tres-
21 pass shall have been committed, for any offence

22 or offences, contrary to the above provisions, and
23 upon conviction thereof before any Court com-
24 petent to try the same, shall pay a fine not ex-
25 ceeding one hundred dollars, to the use of the
26 State, or may be imprisoned for a term not ex-
27 ceeding one year, at the discretion of the Court
28 before whom such conviction may be had.

SECT. 11. *Be it further enacted,* That the
2 annual meeting of the members of said Corpo-
3 ration shall be holden, on the first Monday in
4 June, at such time and place as the Directors
5 for the time being shall appoint, at which meet-
6 ing, the Directors shall be chosen by ballot, each
7 proprietor being entitled to as many votes as he
8 holds shares, and the Directors are hereby au-
9 thorized to call special meetings of the stock-
10 holders, whenever they shall deem it expedient
11 and proper, giving such notice as the Corpora-
12 tion by their by-laws shall direct.

SECT. 12. *Be it further enacted,* That if
2 the said Railroad, in the course thereof, shall
3 cross any private way, the said Corporation
4 shall so construct said Railroad as not to ob-
5 struct the safe and convenient use of such pri-
6 vate way: and if the said Railroad shall, in the

7 course thereof, cross any canal, turnpike, rail-
8 road, or other highway, the said Railroad shall
9 be so constructed as not to obstruct the safe and
10 convenient use of such canal, turnpike or other
11 highway; and the said Corporation shall have
12 power to raise or lower such turnpike, highway
13 or private way, so that the said Railroad, if
14 necessary may conveniently pass under or over
15 the same, and erect such gate or gates thereon,
16 as may be necessary for the safety of travellers
17 on said turnpike, railroad, highway or private
18 way.

SECT. 13. *Be it further enacted,* That if
2 the said Corporation shall not have been organ-
3 ized, and the location according to actual survey
4 of the route filed with the County Commission-
5 ers of the Counties through which the same
6 shall pass, on or before the thirty-first day of
7 December, in the year of our Lord one thous-
8 and eight hundred and thirty-nine, or if the said
9 Corporation shall fail to complete said Railroad
10 on or before the thirty-first day of December, in
11 the year of our Lord one thousand eight hundred
12 and forty-six, in either of the above mentioned
13 cases, this Act shall be null and void.

SECT. 14. *Be it further enacted,* That said
 2 Railroad Corporation shall constantly maintain
 3 in good repair all bridges with their abutments
 4 and embankments, which they may construct
 5 for the purpose of conducting their Railroad
 6 over any canal, turnpike, highway or private
 7 way, or for conducting such private way or
 8 turnpike over said Railroad.

SECT. 15. *Be it further enacted,* That if
 2 said Railroad shall in the course thereof, cross
 3 any tide waters, navigable rivers or streams, the
 4 said Corporation be and they hereby are au-
 5 thorized and empowered to erect for the sole
 6 and exclusive travel on their said Railroad, a
 7 bridge across each of said rivers or streams, or
 8 across any such tide waters: *Provided,* said
 9 bridge or bridges shall be so constructed as not
 10 to obstruct or impede the navigation of said wa-
 11 ters.

SECT. 16. *Be it further enacted,* That the
 2 Books of said Corporation shall at all times be
 3 open to the inspection of the Governor and
 4 Council, and of any Committee duly authorized
 5 by the Legislature: and at the expiration of

6 every twelve years, the Treasurer of said Cor-
7 poration shall make an exhibit under oath to
8 the Legislature, of the net profits derived from
9 the income of said Railroad.

SECT. 17. *Be it further enacted,* That an
2 Act entitled "An Act concerning Corporations"
3 passed March seventeenth, in the year of our
4 Lord one thousand eight hundred and thirty-
5 one, shall not extend or apply to the Company
6 hereby incorporated.

SECT. 18. *Be it further enacted,* That the
2 said Corporation shall at all times, when the
3 Post Master General shall require it, be holden
4 to transport the Mail of the United States from
5 and to such place or places on said road as re-
6 quired, for a fair and reasonable compensation.
7 And in case the Corporation and the Post Mas-
8 ter General shall be unable to agree upon the
9 compensation aforesaid, the Legislature of the
10 State shall determine the same.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 14, 1836. }

Read twice, Wednesday next assigned for a third reading, and three hundred copies ordered to be printed for the use of the members.

[Extract from the Journal.]

Attest, JAMES L. CHILD, CLERK.