

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. 59.

HOUSE.

STATE OF MAINE.

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

AN ACT to Incorporate the Portland, Saco, and
Portsmouth Railroad Company.

SECT. 1. *Be it enacted by the Senate and*
2 House of Representatives in Legislature as-
3 ssembled, That Ether Shepley, Samuel Batch-
4 elder, Josiah Calef, James Brown Thornton,
5 Joseph M. Hayes, Jonathan King, John Fair-
6 field, Jonathan Tucker, Samuel Moody, John
7 Spring, Seth S. Fairfield, John Chadwick,
8 Edward S. Moulton, Henry S. Thacher,
9 Samuel Pierson, Rufus Nichols, Amos Chase,
10 Isaac Emery, Samuel White, Ezra Dean,

11 William P. Hooker, Thomas Cutts, Samuel
12 Merril, Jeremiah C. Stinson, Moses Bradbury,
13 Samuel Hartley, John Condon, Jr., Jonathan
14 Tucker, Jr., Frederic Greene, George Scam-
15 man, Cotton Bradbury, Daniel Cleaves, Will-
16 iam Lord, Thomas Lord, Timothy Frost, Ivory
17 Lord, Barnabas Palmer, John Osborn, James
18 Osborn, Jr., Charles Williams, Palmer Walker,
19 Enoch Hardy, Alexander McIntire, Charles O.
20 Emerson, Solomon Brooks, their associates,
21 successors and assigns, be and they hereby are
22 made a body politic and corporate, by the name
23 of the *Portland, Saco, and Portsmouth Rail-*
24 *road Company*, with power to make, ordain and
25 establish such by-laws for the regulation of their
26 affairs, not repugnant to the laws of this State,
27 as they may deem necessary and proper; and
28 shall have and enjoy all the rights, privileges and
29 immunities contained in "an Act defining the
30 rights and duties of Railroad Corporations,"
31 passed March first, one thousand eight hundred
32 and thirty-six, and also "an Act concerning
33 Corporations" passed February sixteenth, one
34 thousand eight hundred and thirty-six, and be
35 subject to the restrictions and liabilities imposed

36 by the before mentioned Acts; and generally to
37 have and enjoy all the rights and privileges inci-
38 dent to similar Corporations. And said Com-
39 pany are hereby authorized and empowered to
40 locate, construct, and maintain a Railroad from
41 some convenient point in the city of Portland,
42 leading through the towns of Scarborough, Saco,
43 Kennebunk, Wells, York, Kittery, and the in-
44 termediate towns to the Piscataquis River at or
45 near the site of the former ferry across that
46 River, known by the name of the Portsmouth
47 Ferry, in such manner as will best connect with
48 the Railroad to be constructed from Portsmouth
49 to Boston.

SECT. 2. *Be it further enacted,* That the
2 powers of said Company except at the legal
3 meetings thereof shall be vested in a Board of
4 not less than seven Directors, who shall be cho-
5 sen at the first meeting of the Company, and an-
6 nually thereafter in such manner, and at such
7 time as the by-laws of the Company shall pre-
8 scribe, who shall hold their offices for one year,
9 and until others shall be chosen in their stead:
10 and said Directors shall annually elect from their
11 own body, a President, Secretary and Treas-

12 urer, and such other officers as their by-laws
13 shall direct, and shall have power for the bene-
14 fit of the Stockholders, to employ and invest the
15 proceeds of the Railroad as they may see fit.

SECT. 3. *Be it further enacted,* That this
2 grant shall be void unless an accurate survey
3 thereof, with such profile views, computation of
4 the cost of construction, and such other matters
5 and things as are usually made by skilful En-
6 gineers for Railroad routes, be made of said
7 route and copies thereof returned to the Gov-
8 ernor and Council, and the Board of County
9 Commissioners for each of the Counties of York
10 and Cumberland on or before the first day of
11 July which will be in the year one thousand
12 eight hundred and thirty seven, and at least two
13 thirds of the capital stock, requisite by such
14 computation to build said Railroad be subscri-
15 bed and taken up one year thereafter, and the
16 whole of said route grubbed, and at least one half
17 of it be put in operation within or prior to the
18 year one thousand eight hundred and forty two.

SECT. 4. *Be it further enacted,* That the
2 capital stock of said Company may consist of ten
3 hundred thousand dollars, and shall be divided

4 into shares of one hundred dollars each; and
5 the holder of any share or shares shall be enti-
6 tled to as many votes, either by himself or by
7 proxy, in such manner as the by-laws shall
8 prescribe, as he or she holds shares, not exceed-
10 ing, on his own account fifty votes.

SECT. 5. *Be it further enacted*, That said
2 Company may from time to time establish, de-
3 mand and collect such tolls for the transporta-
4 tion of persons, goods, wares, merchandise and
5 commodities on said Railroad as they may see
6 fit.—*Provided*, That whenever the profits aris-
7 ing from tolls or otherwise shall exceed twelve
8 per centum per annum on the actual cost of said
9 Railroad after deducting all necessary disburse-
10 ments in conducting its operations, then the
11 Legislature shall from time to time have the
12 right, so to reduce such tolls as may have been
13 established, not below the rate of twelve per
14 centum per annum as aforesaid as may be judg-
15 ed expedient. And to carry this provision into
16 effect it shall be the duty of said Corporation
17 within twelve months after such Railroad shall
18 have been put in operation, or any part thereof,
19 to make return to the Governor and Council of

20 the actual cost of said Railroad or section, and
21 annually thereafter of all disbursements allowed
22 by the Directors, and the rates of toll by them
23 established, the amount of tolls and other profits
24 received, and the rate of profit or per centum on
25 the cost aforesaid actually realized within the
26 year. And if the Legislature shall not be sat-
27 isfied with such return, the Legislature may re-
28 quire an examination into the affairs of the Cor-
29 poration in such manner as they shall direct.
30 And if it shall appear that the affairs of said
31 Corporation have not been economically con-
32 ducted, and that the profits arising from tolls or
33 otherwise might have exceeded the maximum,
34 of twelve per centum per annum, or that
35 any wilful evasion of the provisions of this
36 section has been practised by said Compa-
37 ny, then the Legislature shall have the right to
38 make such reasonable reductions of the charges
39 for disbursements as aforesaid, allowed and
40 charged by said Directors as shall be judged eco-
41 nomical, and from such basis so to reduce the tolls
42 and profits, not however below twelve per cen-
43 tum per annum, as aforesaid, as shall be judged
44 expedient, anything in this Act to the contrary

45 notwithstanding. *And provided further*, that
46 whenever the rate of nett profit on said whole
47 route of Railroad shall arrive at the maximum
48 of twelve per centum per annum, then the said
49 Company shall annually on or before the first
50 day of January in each year for ten years there-
51 after, pay into the State Treasury, for the use
52 and support of primary schools within the State,
53 one twelfth part of said nett profit; and after the
54 expiration of the said ten years, then said Com-
55 pany shall forever thereafter pay into the Treas-
56 ury of the State all the profits arising from tolls
57 or otherwise, after all necessary disbursements
58 shall have been paid as aforesaid, over and a-
59 bove ten per centum per annum on the actual
60 cost and expenses of said Railroad, for the use
61 and support of primary schools. And it shall
62 be the duty of the State Treasurer, to add all
63 such sums so received to the school fund arising
64 from the Bank tax and to apportion and dis-
65 tribute the same among the towns, plantations
66 and cities in this State, in the same manner
67 that said school fund is or may by law be re-
68 quired to be apportioned and distributed.

SECT. 6. *Be it further enacted*, That
2 said Company may purchase and hold such

3 land and other property as may be necessary for
4 the construction and use of said Railroad, and
5 for such landings, warehouses and other works
6 as they shall judge necessary and proper for the
7 safe keeping of all freight transported or to be
8 transported thereon, and for the safe and con-
9 venient accommodation of persons travelling
10 thereon. And said Company at all times after
11 said Railroad, or any part thereof shall be in
12 such a state of preparation as to commence op-
13 erations, shall provide and keep in good repair
14 safe and convenient cars for the transportation
15 of all persons with their baggage, and all freight
16 proper to be transported thereon, at prompt no-
17 tice, using all proper diligence to accommodate
18 the public, and no tolls shall be demanded un-
19 til this provision be complied with.

SECT. 7. *Be it further enacted,* That it
2 shall be the duty of said Company to receive
3 from any other Railroad established by author-
4 ity of this State, connected with or approaching
5 near to any portion of the line of the road es-
6 tablished by this Company, at any suitable and
7 convenient point, any person or freight, and
8 transport the same to any other point on said

9 Railroad where persons or freight may be safe-
10 ly and conveniently landed, agreeably to the
11 wishes of such person, or the owners of such
12 freight, on the payment or offer of payment of
13 the same rate of tolls established by said Com-
14 pany for the same portion of their said Railroad
15 traversed by such person or freight; *Provided*,
16 That such Railroad Company connecting with
17 or approaching near this line of Railroad, be
18 required in like manner, to transport persons
19 and freight on their Railroad, arriving from this.

SECT. 8. *Be it further enacted*, That if any
2 person shall wilfully or wantonly obstruct the
3 passage of any carriage on said Railroad, or in
4 any way injure or destroy said Railroad, or any
5 part thereof, or any thing belonging thereto, or
6 any material or implement to be employed in
7 the construction or for the use of said Railroad,
8 he, she, or they, or any person, or persons as-
9 sisting, aiding or abetting such trespass, or any
10 such person committing any other trespass on said
11 Railroad, or aiding, assisting, or abetting such
12 trespass, shall forfeit and pay to the use of said
13 Company treble damages by them sustained, to be
14 sued for in an action of the case by such person

15 or officer as the Directors shall from time to
16 time appoint, before any Court of competent
17 jurisdiction. And such offender or offenders
18 shall be liable to indictment by the Grand Ju-
19 ry of the County, within which such trespass
20 shall have been committed for any offence or
21 offences contrary to the above provisions, and on
22 conviction thereof before any Court competent
23 to try the same, shall pay a fine not exceeding
24 one hundred dollars to the use of the State, or
25 be imprisoned for a time not exceeding one
26 year, either or both at the discretion of the
27 Court before whom such conviction may be had.

SECT. 9. *Be it further enacted,* That the
2 provisions of "An Act concerning Corpora-
3 tions," passed March seventeenth, one thou-
4 sand eight hundred and thirty one, shall not
5 extend or apply to the Company hereby incor-
6 porated; nor shall any provisions of this Act be
7 so construed as to prevent this or any future
8 Legislature from granting to any other Compa-
9 ny the right to build and maintain any Rail-
10 road other than that located under the provis-
11 ions of this Act, from Portland to the New
12 Hampshire line; or from Portland to any place

13 or places in the interior parts of the Counties of
14 York and Cumberland, or the County of Ox-
15 ford.

SECT. 10. *Be it further enacted*, That ei-
2 ther two of the three first named persons here-
3 by incorporated may call the first meeting of
4 the Company by publishing a notice of the
5 time and place appointed therefor, in one or
6 more of the newspapers published in each of the
7 Counties of York and Cumberland, three
8 weeks successively, the last publication to be at
9 least ten days prior to the time for holding such
10 meeting.

SECT. 11. *Be it further enacted*, That it
2 shall be the duty of said Company to transport
3 the United States Mail on their Railroad for a
4 reasonable compensation, if required to do so
5 by the Post Master General. And if the Post
6 Master General and the Directors of said Com-
7 pany cannot agree as to the compensation to be
8 allowed by the Post Office Department to said
9 Company for such service, then the Legislature
10 may require said Company to transport said
11 Mail for such compensation, not less than the
12 actual expense incurred in the transportation

13 thereof by said Company, as may be judged
14 reasonable and proper, provided the Post Mas-
15 ter General shall accede thereto.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
March 15, 1836. }

This Bill, laid on the table by Mr. EMERY, of Saco, was twice read and
three hundred copies ordered to be printed for the use of the members.

[Extract from the Journal.]

Attest, JAMES L. CHILD, CLERK.