

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. 60.

SENATE.

STATE OF MAINE.

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

AN ACT to incorporate the Mattanawcook Rail
Road Corporation.

SECT. 1. *Be it enacted by the Senate and
2 House of Representatives, in Legislature as-
3 sembled, That Josiah Towle, Solomon Par-
4 sons, Elisha Ayer, George W. Towle, Theo-
5 dore Taylor and Joseph Porter, their associates,
6 successors and assigns be and they hereby are
7 made a body politic and corporate by the name
8 of the Mattanawcook Rail Road Corporation,
9 and by that name shall be and hereby are made
10 capable in law to sue and be sued to final judg-
11 ment and execution, plead and be impleaded,*

12 defend and be defended in any Courts of **Re-**
13 cord, or in any other place whatever; to have
14 a common seal which they may alter at pleas-
15 ure; to make and establish such by-laws, not
16 repugnant to the laws of this State, as they
17 shall deem necessary and proper, and shall be,
18 and hereby are vested with all the powers,
19 privileges and immunities, which are or may be
20 necessary to carry into effect the purposes and
21 objects of this Act, as hereinafter set forth.
22 And the said Corporation are hereby athrowized
23 and empowered to locate, construct and finally
24 complete, alter and keep in repair a **Rail**
25 **Road** with one or more set of rails or tracts,
26 with all suitable bridges, viaducts, turnouts,
27 culverts, drains and all other necessary appen-
28 dages, from some point or place near the south-
29 erly terminus of the **Military Road**, in the town
30 of **Lincoln** in the county of **Penobscot**, to the
31 village of **Milford** in said county, with the priv-
32 ilege of connecting with the **Penobscot River**
33 **Rail Road Corporation**, and also to extend
34 their line of communication across the **Penob-**
35 **scot River** to the village of **Oldtown** in **Orono**,

36 for the purpose of connecting with any Rail
37 Road which may be constructed to Oldtown
38 under any charter authorized by any law
39 of this State. And for this purpose said Cor-
40 poration shall have the right to take and hold
41 so much of the land of private persons as may
42 be necessary for the location, construction and
43 convenient operation of their Rail Road; and
44 they shall also have the right to take, remove
45 and use for the construction and repair of said
46 Railroad and appurtenances, any earth, gravel,
47 stone, timber or other materials on or from the
48 land so taken. And in case such Railroad shall
49 pass through any woodlands or forests, the said
50 Company shall have the right to fell or remove
51 any trees standing within four rods of such
52 Railroad which by their liability to be blown
53 down or from their natural falling might ob-
54 struct or impair said Railroad, by paying a just
55 compensation therefor, to be recovered in the
56 same manner provided for the recovery of oth-
57 er damages named in this Act. *Provided how-*
58 *ever,* that said land so taken shall not exceed
59 four rods in width, except where greater width
60 is necessary for the purpose of excavation or

61 embankment. *And provided also*, that in all
62 cases said Corporation shall pay for such lands,
63 estate or materials so taken and used, as they
64 and the owner or respective owners thereof
65 may mutually agree on; and in case said par-
66 ties shall not otherwise agree, then said Corpo-
67 ration shall pay such damages as shall be as-
68 certained and determined by the County Com-
69 missioners for the County where such land or
70 other property may be situated in the same
71 manner and under the same conditions and lim-
72 itations as are by law provided in the case of
73 damages by laying out of highways. Saving to
74 the public the right to locate and construct any
75 highway across said Railroad subject to the ex-
76 isting provisions of law for the location, con-
77 struction and repair of highways. And the
78 land so taken by said Corporation shall be held
79 as lands taken and held for public highways.
80 And no application to said Commissioners to
81 estimate said damages shall be sustained unless
82 made within three years from the time of tak-
83 ing such land or other property.

SECT. 2. *Be it further enacted*, That
2 the capital stock of said Corporation shall con-

3 sist of not less than three thousand nor more
4 than six thousand shares of one hundred dol-
5 lars each, and the immediate government and
6 direction of the affairs of said Corporation shall
7 be vested in five or nine Directors, who shall be
8 chosen by the members of said Corporation in
9 the manner hereinafter provided, and shall hold
10 their offices until others shall have been duly
11 chosen and qualified in their stead, a majority
12 of whom shall form a quorum for the transac-
13 tion of business, and they shall elect one of their
14 number to be President of the Board, who
15 shall also be the President of the Corporation,
16 and shall have authority to choose a Clerk, who
17 shall be sworn to the faithful discharge of his
18 duty, and a Treasurer, who shall give bonds to
19 the Corporation with sureties to the satisfac-
20 tion of the Directors in a sum not less than ten
21 thousand dollars for the faithful discharge of his
22 trust. And any two of the persons named in
23 the first section of this Act are hereby authoriz-
24 ed to call the first meeting of said Corporation
25 by giving notice in one or more newspapers
26 published in the county of Penobscot of the
27 time and place and purpose of such meeting fif-

28 teen days at least before the time mentioned in
29 such notice.

SECT. 3. *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 powers
5 herein granted to the Corporation for the pur-
6 pose 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 be
11 necessary and proper to carry into effect the ob-
12 jects 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 progress of the work, and direct
21 the same to be paid to the Treasurer of the Cor-
22 poration, and the Treasurer shall give notice of
23 all such assessments; and in case any subscri-

24 ber or stockholder shall neglect to pay any as-
25 sessment on his share or shares for the space of
26 thirty days after such notice is given as shall be
27 prescribed by the by-laws of said Corporation,
28 the Directors may order the Treasurer to sell
29 such share or shares at public auction after giv-
30 ing such notice as may be prescribed as afore-
31 said to the highest bidder, and the same shall
32 be transferred to the purchaser, and such delin-
33 quent subscriber or stockholder shall be held ac-
34 countable to the Corporation for the balance, if
35 his share or shares shall sell for less than the as-
36 sessments due thereon with the interest and cost
37 of sale; and shall be entitled to the overplus if
38 his share or shares shall sell for more than the
39 assessments due with interest and costs of sale:
39 *Provided however,* that no assessments shall be
40 laid upon any shares in said Corporation of a
41 greater amount in the whole than one hundred
42 dollars.

SECT. 4. *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. 5. *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 passen-
4 gers and property of all descriptions which may
5 be conveyed or transported upon said road at
6 such rates per mile as may agreed upon and estab-
7 lished from time to time by the Directors of said
8 Corporation. The transportation of persons
9 and property, the construction of wheels, the
10 form of cars and carriages, the weights of loads
11 and all other matters and things in relation to
12 the use of said road, shall be in conformity with
13 such rules, regulations and provisions as the di-
14 rectors shall from time to time prescribe and di-
15 rect. *Provided*, that after ten years from the
16 completion of said Railroad, whenever the
17 profits arising from tolls or otherwise shall ex-
18 ceed the amount of twelve per centum per an-
19 num on the actual cost of said Railroad, after
20 deducting all necessary disbursements in con-
21 ducting its operations, then the Legislature shall
22 from time to time have the right so to reduce

23 such tolls as may have been established, not be-
24 low the rate of twelve per centum per annum as
25 aforesaid, as may be judged expedient. And
26 to carry this provision into effect it shall be the
27 duty of said Corporation within twelve months
28 after such Railroad shall have been put in oper-
29 ation, or any section thereof, to make returns
30 to the Governor and Council of the actual cost
31 of said Railroad or section thereof, and annually
32 thereafter of all the disbursements allowed by
33 the Directors, and the rates of toll by them es-
34 tablished, the amount of tolls and other profits
35 received and the rate of profit or per centum on
36 the cost aforesaid actually realized within the
37 year. And if the Legislature shall not be sat-
38 isfied with such return, the Legislature may re-
39 quire an examination into the affairs of the Cor-
40 poration in such manner as they shall direct.
41 And if it shall appear that the affairs of said
42 Corporation have not been economically con-
43 ducted, and that the profits arising from tolls or
44 otherwise might have exceeded the amount of
45 twelve per centum per annum, or that any wil-
46 ful evasion of this section has been practised by
47 said Corporation, then the Legislature shall

48 have a right to make such reductions of the
49 charges for disbursements aforesaid, allowed and
50 charged by said Directors, as shall be reason-
51 able, and upon such basis so made as aforesaid,
52 they may reduce the tolls and profits, if they
53 shall judge it expedient so to do, but not below
54 twelve per centum per annum. *And further*
55 *provided*, that the Legislature may authorize
56 any other company or companies to connect any
57 other Railroad or Railroads with the Railroad
58 of said Corporation at any points of intersection
59 on the route of said Railroad. And the Cor-
60 poration shall receive and transport all persons,
61 goods and property of all descriptions which may
62 be carried and transported to the Railroad of
63 said Corporation on such other Railroads as
64 may be hereafter authorized to be connected
65 therewith, at the same rates of toll and freight
66 as may be prescribed by said Corporation, so
67 that the rates of freight and toll on such passen-
68 gers goods and other property as may be receiv-
69 ed, from such other Railroads so connected with
70 said Railroad as aforesaid, shall not exceed the
71 general rates of freight and toll on said Rail-
72 road received for freight and passengers at any

73 of the depots of said Corporation. *And further*
 74 *provided*, that said Corporation after the com-
 75 pletion of its route shall be holden at all times
 76 to keep said Railroad in good and sufficient re-
 77 pair, and shall have a lien on all merchandize
 78 and property transported on said Railroad for
 79 the payment of all legal tolls.

SECT. 6. *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 aforesaid, when completed, and
 6 upon such parts thereof as shall from time to
 7 time be completed.

SECT. 7. *Be it further enacted*, That when
 2 said Corporation shall take any land or other
 3 estate as aforesaid of any infant, person non com-
 4 pos mentis, feme covert, whose husband is un-
 5 der guardianship, the guardian of such infant, or
 6 person non compos mentis, and feme covert with
 7 the guardian of her husband shall have full pow-
 8 er and authority to agree and settle with said
 9 Corporation for damages or claims for damages
 10 by reason of taking such land and estate afore-

11 said, and give good and valid releases and dis-
12 charges therefor.

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

24 to try the same, shall pay a fine not exceeding
 25 one hundred dollars, to the use of the State, or
 26 may be imprisoned for a term not exceeding one
 27 year, at the discretion of the Court before whom
 28 such conviction shall be had.

SECT. 9. *Be it further enacted,* That the
 2 annual meeting of the members of said Corpo-
 3 ration shall be holden on the first Monday of
 4 May, 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. 10. *Be it further enacted,* That
 2 if 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, railroad
 8 or other highway, the said Railroad shall be so

9 constructed as not to obstruct the safe and con-
10 venient 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 ne-
14 cessary, 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. 11. *Be it further enacted*, That said
2 Corporation shall be held liable to grade ten
3 miles of said route within one year from the first
4 day of June next, and one half of said route
5 within two years from that date, and the re-
6 mainder within three years from said first day
7 of June, and provided said Corporation shall
8 fail to complete said Railroad within three years
9 from the first day of June, in the year of our
10 Lord one thousand eight hundred and thirty-
11 six, this Act shall be null and void.

SECT. 12. *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. 13. *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.

SECT. 14. *Be it further enacted,* That the
2 provisions of an Act concerning Corporations,
3 passed March seventeenth, one thousand eight
4 hundred and thirty one, shall not extend or ap-
5 ply to the Corporation hereby incorporated.

SECT. 15. *Be it further enacted,* That the
2 said Corporation shall at all times when the
3 Postmaster 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 Railroad
6 as required, for a fair and reasonable compensa-
7 tion, and in case the Corporation and the Post-
8 master General shall be unable to agree upon
9 the compensation aforesaid, the Legislature of
10 the State shall fix and determine the same.

STATE OF MAINE.

In SENATE, March 15, 1836.

Ordered, that 300 copies of this Bill be printed for the use of the
Legislature.

[Extract from the Journal.]

Attest, WILLIAM TRAFTON, *Secretary.*