

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. 62.

SENATE.

STATE OF MAINE.

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

AN ACT to Incorporate the Kennebec and Port-
land Railroad Company.

SECT. 1. *Be it enacted by the Senate and*
2 *House of Representatives in Legislature as-*
3 *sembled,* That Robert Hallowell Gardiner,
4 O. B. Dorrance, F. Allen, M. Greenwood, A.
5 Berry, N. F. Deering, P. Sheldon, M. P.
6 Sawyer, Henry Bowman, Wm. Stevens, 2d. J.
7 P. Boyd, F. Tinkham, John Henry, E. Swan,
8 John Otis, Reuel Williams, A. Redington, E.
9 F. Deane, G. Evans, H. B. Hoskins, A. J.
10 Stone, R. K. Page, S. H. Mudge, A. Shaw,

11 S. E. Crocker, E. McLellan, Francis Richards,
12 M. Springer, Wm. Palmer, Allen Lambard,
13 R. H. Gardiner Jr., E. C. Stevens, James L.
14 Child, T. W. Smith, S. Kingsbery, A. S.
15 Chadwick, J. P. Boyd, R. Boyd, M. French,
16 Nathl. Kimball, Hiram Stevens, Alex. Cooper,
17 Martin Gore, Stephen Young, H. Goddard,
18 D. Scribner, J. C. Humphrey, D. Dunlap,
19 David Neal, their associates, successors and as-
20 signs be and they hereby are made a body poli-
21 tic and corporate by the name of the *Kennebec*
22 *and Portland Railroad Company*, and by that
23 name shall have and enjoy all the rights,
24 privileges and immunities incident to Corpora-
25 tions, and subject to the liabilities and duties
26 provided for by an "Act concerning Corpora-
27 tions," passed February sixteenth, eight hun-
28 dred and thirty six, so far as the same is made
29 applicable to Railroads heretofore incorporated,
30 and also subject to the duties and liabilities, and
31 entitled to all the rights, privileges and immunities
32 provided for in the "Act defining the rights and
33 duties of Railroad Corporations," passed March
34 first, one thousand eight hundred and thirty-six;
35 and also shall have the power to establish and

36 ordain such by-laws as shall from time to time
37 be deemed necessary and proper for the manage-
38 ment and regulation of their affairs, not repug-
39 nant to the laws of this State; and said Com-
40 pany are hereby authorized and empowered to
41 locate, construct and maintain a Railroad com-
42 mencing at a point in the city of Portland, and
43 thence passing through the towns of North Yar-
44 mouth, Freeport, Brunswick Village and Tops-
45 ham to Gardiner Village, and thence through
46 Hallowell to Augusta Village.

SECT. 2. *Be it further enacted,* That
2 the powers of said company, except at the legal
3 meetings thereof, shall be vested in a Board of
4 not less than nine Directors, who shall be chos-
5 en at the first meeting of said Company, and
6 afterwards annually at such time as the by-laws
7 of the Company shall prescribe, and shall hold
8 their offices for one year and until others shall
9 be chosen in their stead; and said Directors
10 shall annually elect from their own body a Presi-
11 dent, Secretary, Treasurer and such other offi-
12 cers as said by-laws shall direct, and shall have
13 power to employ and invest the proceeds of the
14 Railroad as they may see fit, for the use and
15 benefit of the Stockholders.

SECT. 3. *Be it further enacted,* That this
2 grant shall be void unless the route of said Rail-
3 road shall be surveyed and a return of said sur-
4 vey be made to the County Commissioners
5 of the Counties thro' which said Railroad shall
6 pass and to the Governor and Council, on or
7 before the first day of August, one thousand eight
8 hundred and thirty-seven, and the stock taken
9 up within two years thereafter and at least that
10 part of said route between Portland and Bruns-
11 wick be completed and in operation within six
12 years from the said first day of August, one
13 thousand eight hundred and thirty-seven, and
14 the whole route within ten years therefrom.

SECT. 4. *Be it further enacted,* That the
2 Capital Stock of said Company may consist of
3 one million two hundred thousand dollars, and
4 shall be divided into shares of two hundred dol-
5 lars, and each share shall be entitled to one
6 vote by the person holding such share or shares
7 or by authorizing some other person in writing
8 to vote and act as his proxy; but no member
9 shall be allowed more than 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 transportation
4 of persons, goods, wares, merchandise or com-
5 modity whatever, on said Railroad as they may
6 see fit: *Provided*, That whenever the profits
7 arising from tolls or otherwise shall exceed
8 twelve per centum per annum, on the actual
9 cost of said Railroad, after deducting all neces-
10 sary disbursements in conducting its operations,
11 then the Legislature shall from time to time
12 have the right so to reduce such tolls as may
13 have been established, not below the rate of
14 twelve per centum per annum as aforesaid, as
15 may be judged expedient; And to carry this
16 provision into effect, it shall be the duty of said
17 Company within one year after said Railroad
18 shall have been put in operation or any part
19 thereof to make return to the Governor and
20 Council of the actual cost of said Railroad, or
21 part thereof, and annually thereafter of all dis-
22 bursements made and allowed by the Directors
23 and the rates of toll by them established, the
24 amount of tolls and other profits received, and
25 the rate of profits or per centum on the cost
26 aforesaid, actually realized within the year; and
27 if the Legislature shall not be satisfied with such

28 return, the Legislature may require an exami-
29 nation into the affairs of said Company in such
30 manner as they shall direct; And if it shall ap-
31 pear that the affairs of said Company have not
32 been economically conducted, and that the prof-
33 its arising from tolls or otherwise, might have
34 exceeded the maximum of twelve per centum
35 per annum, or that any wilful evasion of the
36 provisions of this section shall have been prac-
37 tised by said Company, then the Legislature
38 shall have the right to make such reasonable
39 reduction of the charges for disbursements, as
40 aforesaid, allowed and charged by said Direc-
41 tors as shall be judged economical, and from such
42 basis so to reduce the tolls and profits, not how-
43 ever below the rate of twelve per centum per
44 annum, as aforesaid, as shall be judged expedi-
45 ent, any thing in this Act to the contrary not-
46 withstanding.

SECT. 6. *Be it further enacted,* That it
2 shall be the duty of said Company to provide
3 and maintain on their Railroad suitable and
4 convenient cars for the transportation of persons
5 and freight of every description, to be transport-
6 ed thereon; and may purchase, take and hold

7 such land and other property, may establish
8 such depots, ware-houses and other works as
9 may be necessary for the safe keeping and ac-
10 commodation of persons, goods, wares and mer-
11 chandise transported, or to be transported there-
12 on, as may be found expedient for the construc-
13 tion and use of said Railroad and other works,
14 and shall have a lien for tolls due on all proper-
15 ty of every description by them transported from
16 place to place with the right to sell so much
17 thereof as may be necessary to pay the same
18 with incidental charges, and may make and
19 collect such assessments on the shares of said
20 Capital Stock as may be deemed expedient, in
21 such manner as shall be prescribed in their by-
22 laws.

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 approach-
5 ing near to any portion of the Road established
6 by this Company, at any suitable and conven-
7 ient point, any person or freight, and transport
8 the same to any other point on said Railroad
9 where persons or freight may be safely and con-

10 veniently landed, agreeably to the wishes of such
11 person, or the owner of such freight, on the pay-
12 ment, or offer of payment of the same rate of
13 tolls established by said Company for the same
14 portion of their said Railroad traversed by such
15 person or freight: *Provided*, That such Rail-
16 road Company connecting with, or approaching
17 this line of Railroad, be required in like man-
18 ner to transport persons and freight on their
19 Railroad arriving from this.

SECT. 8. *Be it further enacted*, That if
2 any person shall wilfully or wantonly obstruct
3 the passage of any carriage on said Railroad, or
4 in any way injure or destroy said Railroad, or
5 any part thereof, or any thing belonging thereto,
6 or 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 assist-
9 ing, aiding or abetting such trespass, or com-
10 mitting, or in aiding or assisting in the commis-
11 sion of any other trespass on said Railroad, or
12 any thing connected therewith, shall forfeit and
13 pay to the use of said Company treble damages
14 by them sustained, to be sued for and recovered
15 in an action of debt, or of the case, by such per-

16 son or officers as the Directors shall from time
 17 to time appoint, before any court of competent
 18 jurisdiction. And such offender or offenders
 19 shall be liable to indictment by the Grand
 20 Jury of the County within which such trespass
 21 shall have been committed for any offence or
 22 offences done in violation of the above provis-
 23 ions, and on conviction thereof before any court
 24 competent to try the same, shall pay a fine not
 25 exceeding one hundred dollars to the use of the
 26 State, or be imprisoned for a time not exceed-
 27 ing one year, either or both at the discretion of
 28 the Court before whom such conviction may be
 29 had.

SECT. 9. *Be it further enacted*, That the
 2 provisions of an "Act concerning Corporations"
 3 passed March 17, 1831, shall not extend or ap-
 4 ply to the Company hereby incorporated.

SECT. 10. *Be it further enacted*, That the
 2 first meeting of the Company may be called at
 3 Brunswick, by the three persons first named in
 4 the first section of this Act, by publishing the
 5 notice of such meeting three weeks successively,
 6 in one or more of the newspapers published at
 7 Augusta, Gardiner, Brunswick and Portland,

8 the last publication to be at least ten days before
9 the time appointed for such 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 so to do
5 by the Post Master General; and if the Post
6 Master General and the Directors of said Com-
7 pany cannot agree on 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 by said Company in the
13 transportation thereof, as the Legislature may
14 judge reasonable and proper, provided the Post
15 Master General should accede thereto.

SECT. 12. *Be it further enacted,* That the
2 portion of this Railroad route from Gardiner
3 village to Augusta village through Hallowell
4 shall be made and completed within one year
5 from the time that the Railroad and works
6 thereon, from the village of Gardiner to the
7 city of Portland, shall have been completed and
8 put in operation; the route and termini to be

9 designated by some skilful and experienced En-
10 gineer to be employed by said Company to make
11 their survey, in the most practicable manner,
12 having due regard to the accommodation of the
13 public and the interests of said Company: *Pro-*
14 *vided*, That if such extension in the manner
15 and time aforesaid, in the opinion of said En-
16 gineer, shall require an extension of their capi-
17 tal stock, then a further time of one year shall
18 be allowed to said Company so to complete said
19 route. But no construction shall be given to
20 the provisions of this Act which shall tend to
21 exonerate, or prevent said Company from the
22 duty, or right of connecting the village of Au-
23 gusta, through Hallowell as aforesaid, in the
24 most commodious manner, with the Railroad
25 from Gardiner village to the city of Portland:
26 *And provided further*, That if any other Rail-
27 road shall be granted by the Legislature before
28 the time allowed to the Corporation by this
29 Act to complete the same, either between Pitts-
30 ton and Augusta, or Gardiner and Augusta, so
31 as to divert travel from this road, then this
32 Corporation shall not be required to complete
33 the section between Gardiner and Augusta.

STATE OF MAINE.

In SENATE, March 17, 1836.

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

[Extract from the Journal.]

Attest,

WILLIAM TRAFTON, *Secretary.*