

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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## THE LEGISLATURE,

OF THE

## STATE OF MAINE,

DURING ITS SESSION

A. D. 1837.

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*AUGUSTA:*  
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1837.

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# SEVENTEENTH LEGISLATURE.

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No. 20.

HOUSE.

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## STATE OF MAINE.

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

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AN ACT to establish the Portland, Saco, and  
Portsmouth Rail Road Company.

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

12 C. Stinson, Moses Bradbury, Samuel Hartley,  
13 John Condon, Jr., Jonathan Tucker, Jr. Fred-  
14 ric Green, George Scammon, Cotton Bradbury,  
15 Daniel Cleaves, William Lord, Thomas Lord,  
16 Luther Jewett, Timothy Frost, Ivory Lord,  
17 Barnabas Palmer, John Osborn, James Os-  
18 born, Jr., Charles Williams, Palmer Walker,  
19 Enoch Hardy, Alexander McIntire, Charles  
20 C. Emerson, Solomon Brooks, their associates,  
21 successors and assigns, be and they are hereby  
22 made a body politic and corporate by the name  
23 of The Portland, Saco, and Portsmouth Rail  
24 Road Company, and by that name shall have  
25 all the powers, privileges and immunities and  
26 be subject to all the duties and liabilities povid-  
27 ed and prescribed in an Act passed on the six-  
28 teenth of February last, entitled "An Act  
29 concerning Corporations" and Act defining  
30 certain rights and duties of Railroad Corpo-  
31 rations, passed the first of March last, and  
32 shall be and hereby are invested with all the  
33 powers, privileges and immunities, which are  
34 or may be necessary to carry into effect the  
35 purposes and objects of this Act as hereinafter

36 set forth. And the said Corporation are hereby  
37 authorized and empowered to locate, construct,  
38 and finally complete, alter and keep in repair a  
39 Railroad with one or more set of rails or tracks,  
40 with all suitable bridges, viaducts, turnouts,  
41 culverts, drains, and all other necessary appen-  
42 dages, from some point or place in or near the  
43 city of Portland, through the towns of Scar-  
44 borough, Saco, Kennebunk, Wells, York, Kit-  
45 tery, and the intermediate towns to the New  
46 Hampshire line at such place as will best con-  
47 nect with the Rail Road to be constructed from  
48 Portsmouth to Boston. And for this purpose  
49 said Corporation shall have the right to take  
50 and hold so much of the land, and other real  
51 estate of private persons, as may be necessary  
52 for the location, construction and convenient  
53 operation of their Railroad; and they shall also  
54 have the right to take, remove and use for the  
55 construction and repair of said Railroad and  
56 appurtenances, any earth, gravel, stone, timber  
57 or other materials, on or from the land so taken.  
58 *Provided, however,* that said land so taken,  
59 shall not exceed four rods in width, except  
60 where greater width is necessary for the pur-

pose of excavation or embankment : *And provided, also*, that in all cases, said Corporation shall pay for such lands, estate or materials so taken and used, such price as they and the owner, or respective owners thereof may mutually agree on; and in case said parties shall not otherwise agree, then said Corporation shall pay such damages as shall be ascertained and determined by the County Commissioners for the County where such land or other property may be situated, in the same manner and under the same conditions and limitations, as are by law provided in the case of damages by laying out of highways. And the land so taken by said Corporation shall be held as lands taken and held for public highways. And no application to said Commissioners to estimate said damages shall be sustained, unless made within three years from the time of taking such land or other property; or when it has already been taken, within one year from the time of passing this Act; and in case such Railroad shall pass through any wood-lands or forests, the said Company shall have the right to fell or remove any trees standing therein, within four rods from

86 such road, which by their liability to be blown  
87 down or from their natural falling might ob-  
88 struct or impair said Railroad, by paying a  
89 just compensation therefor, to be recovered in  
90 the same manner as is provided for the recovery  
91 of other damages in this bill.

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



20 the satisfaction of the Directors, in a sum not  
21 less than thirty thousand dollars for the faithful  
22 discharge of his trust. . And for the purpose of  
23 receiving subscriptions to the said stock, books  
24 shall be opened under the direction of the per-  
25 sons named in the first section of this Act, at  
26 such time and in such places in the shire-towns  
27 in the several Counties of York and Cumber-  
28 land, in this State, and in the town of Ports-  
29 mouth in New Hampshire, and Newburyport  
30 and the city of Boston in Massachusetts, and  
31 elsewhere as they shall appointment, to remain  
32 open for ten successive days, of which time  
33 and place of subscription public notice shall be  
34 given in some newspaper printed in Portland, Sa-  
35 co, Portsmouth and Boston, twenty days at least,  
36 previous to the opening such subscription, and  
37 in case the amount subscribed shall exceed  
38 twelve thousand shares, the same shall be dis-  
39 tributed among all the subscribers, according to  
40 such regulations, as the persons having charge  
41 of the opening of the subscription books shall  
42 prescribe before the opening of said books.  
43 And any seven of the persons named in the first  
44 section of this Act, are hereby authorized to

45 call the first meeting of said Corporation by  
46 giving notice in one or more newspapers pub-  
47 lished in the towns and cities above named, of  
48 the time and place, and the purpose of such  
49 meeting, at least twenty days before the time  
50 mentioned in 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  
8 persons, goods and property of all descriptions,  
9 and all such power and authority for the man-  
10 agement of the affairs of the Corporation, as  
11 may be necessary and proper to carry into effect  
12 the objects of this grant; to purchase and hold  
13 land, materials, engines and cars, and other  
14 necessary things, in the name of the Corporation  
15 for the use of said Road, and for the transporta-  
16 tion of persons, goods and property of all descrip-  
17 tions; to make such equal assessments from time  
18 to 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  
27 as shall be prescribed by the by-laws of said  
28 Corporation, the Directors may order the Treas-  
29 urer to sell such share or shares, at public auc-  
30 tion, after giving such notice as may be prescrib-  
31 ed as aforesaid, to the highest bidder, and the  
32 same shall be transferred to the purchaser, and  
33 such delinquent subscriber or stockholder shall  
34 be held accountable to the Corporation for the  
35 balance, if his share or shares shall sell for less  
36 than the assessments due thereon, with the in-  
37 terest, and costs of sale; and shall be entitled  
38 to the overplus if his share or shares shall sell  
39 for more than the assessments due, with interest  
40 and costs of sale : *Provided however*, That no  
41 assessments shall be laid upon any shares in said  
42 Corporation of a greater amount in the whole  
43 than one hundred 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  
 2 toll be and hereby is granted and established,  
 3 for the sole benefit of said Corporation, upon all  
 4 passengers, and property of all descriptions,  
 5 which may be conveyed or transported upon  
 6 said road; at such rate per mile, as may be  
 7 agreed upon and established from time to time  
 8 by the Directors of said Corporation. The  
 9 transportation of persons and property—the  
 10 construction of wheels, the forms of cars and car-  
 11 riages, the weights of loads, and all other matters  
 12 and things in relation to the use of said road shall  
 13 be in conformity with such rules, regulations and  
 14 provisions as the Directors shall from time to  
 15 time prescribe and direct: *Provided, however,*  
 16 That if at the expiration of twelve years from  
 17 and after the completion of said road, the net in-  
 18 come or receipts from tolls and other profits, tak-  
 19 ing the twelve years aforesaid as the basis of cal-

20 culation, 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. *And provided*  
 36 *further*, That the Legislature may instead of  
 37 reducing said tolls and profits to twelve per cent,  
 38 appropriate the surplus to the public Schools of  
 39 the State.

SECT. 6. *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

6 of said Railroad. And said Corporation shall  
7 receive and transport all persons, goods and  
8 property of all descriptions, which may be car-  
9 ried and transported, to the Railroad of said Cor-  
10 poration, on such other Railroads as may be  
11 hereafter authorized to be connected therewith,  
12 at the same rates of toll and freight, as may be  
13 prescribed by said Corporation, so that the rates  
14 of freight and toll on such passengers, goods,  
15 and 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 deposits of said Corporation.

SECT. 7. *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. 8. *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  
 11 land and estate aforesaid, and give good and  
 12 valid releases and discharges therefor.

SECT. 9. *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. 10. *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. 11. *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. 12. *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 thou-  
 8 sand eight hundred and forty, 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. 13. *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. 14. *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  
11 waters.

SECT. 15. *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. 16. *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. 17. *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. . And said Cor-  
11 poration after they shall commence the receiving  
12 of tolls shall be bound at all times to have said  
13 Railroad in good repair, and a sufficient num-  
14 ber of suitable carriages and vehicles for the  
15 transportation of persons and articles and be  
16 obliged to receive at all proper times and places  
17 and convey the same when the appropriate tolls  
18 therefor shall be paid or tendered, and a lien is  
19 hereby created on all articles transported for  
20 said tolls.

**STATE OF MAINE.**

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**HOUSE OF REPRESENTATIVES, }**  
**February 9, 1837. }**

Read twice, laid on the table, and three hundred copies  
ordered to be printed for the use of the Legislature.

(Extract from the Journal.)

Attest:      **CHARLES WATERHOUSE, Clerk.**