

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1849.



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1850.

TWENTY-NINTH LEGISLATURE.

No. 25.]

[HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FORTY-NINE.

AN ACT to establish the Franklin Railroad Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. Theodore Marston, William M. Reed,
2 John L. Blake, Joseph A. Linscott, Amos S. King,
3 Daniel Towle, Charles Church, jr., Rufus Brett, Co-
4 lumbus Smith, Nathaniel K. Whittimore, Joseph Sher-
5 burne, Phillip M. Stubbs, Winthrop Norton, Enoch
6 Morrell, Elisha Jewett, Jere W. Porter, Josiah C.
7 Mooar, Benjamin F. Eastman, Nathaniel Gammon,
8 William Tarbox, James E. Thompson, John Mayall,

9 Daniel Hoyt, Joel W. Hoyt, Lemuel Crosby, Sheldon
10 H. Beal, Seward Dill, Archibald Talbot, Moses Sher-
11 burne, Darius Howard, William Tripp, E. D. Robin-
12 son, Nathaniel H. Holley, their associates, successors
13 and assigns, are hereby made and constituted a body
14 politic and corporate by the name of the Franklin
15 Railroad Company, and by that name may sue and
16 be sued, plead and be impleaded, and shall have and
17 enjoy all proper remedies at law and in equity to
18 secure and protect them in the exercise and use of
19 the rights and privileges and in the performance of
20 the duties hereinafter granted and enjoined, and to
21 prevent all invasion thereof or interruption in per-
22 forming the same. And the said corporation are
23 hereby empowered and authorized to locate, construct
24 and finally complete, alter and keep in repair a rail-
25 road with one or more sets of rails or tracks, with all
26 suitable bridges, tunnels and viaducts, turnouts, cul-
27 verts, drains, and all other necessary appendages from
28 some point or place in the town of Jay, in the county
29 of Franklin, and thence through the towns of Wilton,
30 Farmington, Strong, Avon, and Freeman, or any or
31 either of them, to some point or place in the town of
32 Phillips, near Sandy river, in such a route as the

33 directors of said corporation in the exercise of their
34 best judgment or discretion shall judge most favorable
35 and best calculated to promote the public convenience
36 and carry into effect the intentions and purposes of
37 this act. And said corporation are hereby invested
38 with all the powers, privileges and immunities which
39 are or may be necessary to carry into effect the
40 purposes and objects of this act as herein set forth.
41 And for this purpose said corporation shall have the
42 right to purchase or to take and hold so much of the
43 land and other real estate of private persons and cor-
44 porations as may be necessary for the location, con-
45 struction and convenient operation of said railroad;
46 and they shall also have the right to take, remove and
47 use for the construction and repair of said railroad
48 and appurtenances, any earth, gravel, stone, timber
49 or other materials on or from the land so taken;
50 *provided however*, that said land so taken shall not
51 exceed six rods in width except where greater width
52 is necessary for the purpose of excavation or embank-
53 ment; and *provided also*, that in all cases said corpo-
54 ration shall pay for such lands, estate or materials so
55 taken and used, such price as they and the owner or
56 respective owners thereof may mutually agree on;

57 and in case said parties shall not otherwise agree, then
58 said corporation shall pay such damages as shall be
59 ascertained and determined by the county commis-
60 sioners for the county where such land or other prop-
61 erty may be situated in the same manner and under
62 the same conditions and limitations as are by law
63 provided in the case of damages by the laying out of
64 highways. And the land so taken by said corporation
65 shall be held as lands taken and appropriated for
66 highways. And no application to said commissioners
67 to estimate said damages shall be sustained unless
68 made within three years from the time of taking such
69 land or other property; and in case such railroad
70 shall pass through any wood lands or forests the said
71 company shall have a right to fell or remove any trees
72 standing therein within four rods of such road, which
73 by their liability to be blown down, or from their
74 natural falling, might obstruct or impair said railroad,
75 by paying a just compensation therefor; to be recov-
76 ered in the same manner as provided for the recovery
77 of other damages in this act.

SEC. 2. The capital stock of said corporation shall
2 consist of not less than fifteen hundred nor more
3 than eight thousand shares; and the immediate gov-

4 ernment and direction of the affairs of said corpora-
5 tion shall be vested in nine, eleven or thirteen direc-
6 tors, who shall be chosen by the members of said
7 corporation in the manner hereinafter provided, and
8 shall hold their office until others shall have been duly
9 elected and qualified to take their place, a majority
10 of whom shall form a quorum for the transaction of
11 business, and they shall elect one of their number to
12 be president of the corporation, and shall have au-
13 thority to choose a clerk who shall be sworn to the
14 faithful discharge of his duty ; and a treasurer who
15 shall be sworn and also give bonds to the corporation
16 with sureties to the satisfaction of the directors in a
17 sum not less than ten thousand dollars for the faithful
18 discharge of his trust. And for the purpose of receiv-
19 ing subscription to the said stock, books shall be
20 opened under the direction of the persons named in
21 the first section of this act, at such time as they may
22 determine in the towns of Phillips, Farmington, Wil-
23 ton, Strong, and the cities of Bath and Portland in
24 this state, and elsewhere as they shall appoint, to re-
25 main open for ten successive days, of which time and
26 place of subscription public notice shall be given in
27 some newspaper printed in Farmington, Lewiston,

28 and Portland, twenty days at least previous to the
29 opening of said subscription, and in case the
30 amount subscribed shall exceed the whole capital
31 stock the same shall be distributed among all the sub-
32 scribers according to such regulations as the persons
33 having charge of the opening of the subscription
34 books shall prescribe before the opening of said books.
35 And any seven of the persons named in the first sec-
36 tion of this act are hereby authorized to call the first
37 meeting of said corporation by giving notice in one
38 or more newspapers published in the towns and cities
39 last above named and of the time and place and the
40 purpose of such meeting at least twenty days before
41 the time mentioned in such notice.

SEC. 3. Said corporation shall have power to make,
2 ordain and establish all necessary by-laws and regula-
3 tions consistent with the laws and constitution of this
4 state, for their own government and the due and
5 orderly conducting of their affairs and the manage-
6 ment of their property.

SEC. 4. The president and directors for the time
2 being are hereby authorized and empowered by them-
3 selves or their agents to exercise all the powers herein
4 granted to the corporation for the purpose of locat-

5 ing, constructing, and completing said railroad and
6 for the transportation of persons, goods, and property
7 of all descriptions, and all such power and authority
8 for the management of the affairs of the corporation
9 as may be necessary and proper to carry into effect
10 the objects of this grant, to purchase and hold land,
11 materials, engines and cars, and other necessary
12 things in the name of the corporation for the use of
13 said road and for the transportation of persons, goods
14 and property of all descriptions, to make such equal
15 assessment from time to time on all the shares in said
16 corporation as they may deem expedient and neces-
17 sary in the execution and the progress of the work,
18 and direct the same to be paid to the treasurer of the
19 corporation. And the treasurer shall give notice of
20 all such assessments, and in case any subscriber or
21 stockholder shall neglect to pay any assessment on his
22 share or shares for the space of thirty days after such
23 notice is given as shall be prescribed by the by-laws
24 of the corporation, the directors may order the treas-
25 urer to sell such share or shares at public auction after
26 giving such notice as may be prescribed as aforesaid
27 to the highest bidder, and the same shall be trans-
28 ferred to the purchaser, and such delinquent subscriber

29 or stockholder shall be held accountable to the cor-
30 poration for the balance, if his share or shares shall
31 sell for less than the amount of the assessment due
32 thereon with the interest and costs of sale, and shall
33 be entitled to the overplus, if his share or shares shall
34 sell for more than the assessments due with in-
35 terest and costs of sale; *provided however*, that no
36 assessment shall be laid upon any shares in said cor-
37 poration of a greater amount in the whole than one
38 hundred dollars.

SEC. 5. A toll is hereby granted and established for
2 the sole benefit of said corporation upon all passen-
3 gers and property of all descriptions which may be
4 conveyed or transported by them upon said road at
5 such rate as may be agreed upon and established
6 from time to time by the directors of said corpora-
7 tion. The transportation of persons and property,
8 the construction of wheels, the forms of cars and
9 carriages, the weights of loads, and all other matters
10 and things in relation to said road, shall be in con-
11 formity with such rules, regulations, and provisions as
12 the directors shall from time to time prescribe and
13 direct.

SEC. 6. Said corporation is hereby authorized and

2 empowered to connect, if it shall elect so do, with the
3 Androscoggin railroad at any point in either of the
4 towns of Wilton or Jay; and said Androscoggin rail-
5 road shall receive and transport all persons, goods and
6 property of all descriptions which may be carried and
7 transported to their roads, on the Franklin railroad at
8 the same rates of freight and toll on such passengers
9 and goods and other property as may be prescribed
10 by said Androscoggin railroad company, so that the
11 rates of freight and toll on such passengers, goods and
12 other property, as may be so received from said
13 Franklin railroad shall not exceed the general rates of
14 freight and toll on its road received for freight and
15 passengers at any of its deposits of said corporation;
16 *provided also*, that the said Androscoggin railroad, if
17 they shall elect so to do, are hereby authorized to
18 connect with the said Franklin railroad subject to the
19 provisions of "an act relating to railroads," approved
20 March seventh, eighteen hundred and forty-two.

SEC. 7. If the said railroad in the course thereof
2 shall cross any private way, the said corporation shall
3 so construct said railroad as not to obstruct the safe
4 and convenient use of such private way, and if the
5 said railroad shall in the course thereof cross any

6 canal, turnpike, railroad, or other highway, the said
7 railroad shall be so constructed as not to obstruct the
8 safe and convenient use of such canal, turnpike, or
9 other highway, and the said corporation shall have
10 power to raise or lower such turnpike, highway, or
11 private way, so that said railroad, if necessary, may
12 conveniently pass under or over the same, and erect
13 such gate or gates thereon as may be necessary for
14 the safety of travelers on said turnpike, railroad, high-
15 way, or private way.

SEC. 8. Said railroad corporation shall constantly
2 maintain in good repair all bridges with their abut-
3 ments, and embankments, which they may construct
4 for the purpose of conducting their railroad over any
5 canal, turnpike, highway, or private way, or for con-
6 ducting such private way or turnpike over said railroad.

SEC. 9. If said railroad shall in the course thereof
2 cross any lakes, ponds, rivers, or streams, the said
3 corporation are hereby authorized and empowered to
4 erect for the sole and exclusive travel on their rail-
5 road, a bridge across each of said rivers, lakes, ponds
6 or streams.

SEC. 10. Said railroad corporation shall erect and
2 maintain substantial, legal and sufficient fences on

3 each side of the land taken by them for their railroad
4 where the same passes through enclosed or improved
5 lands, or lands that may hereafter be improved, and
6 for neglect to erect and maintain such fence, said
7 corporation shall be liable to be indicted in the district
8 court for the county where such fence shall be insuffi-
9 cient, and to be fined in such sum as shall be adjudged
10 necessary to repair the same, and such fine shall be
11 expended for the erection or repair of said fence under
12 the direction of an agent appointed by the court as in
13 case of fines imposed upon the towns for deficiency
14 of highways.

SEC. 11. The said corporation shall at all times
2 when the post master general shall require it be
3 holden to transport the mail of the United States from
4 and to such place and places on said road as required,
5 for a fair and reasonable compensation. And in case
6 the corporation and post master general shall be una-
7 ble to agree upon the compensation aforesaid the
8 legislature of the state shall determine the same. And
9 said corporation after they shall commence receiv-
10 ing of tolls, shall be bound at all times to have
11 said railroad in good repair and a suitable num-
12 ber of suitable engines, carriages and vehicles for

13 the transportation of persons and articles and be
14 obliged to receive at all proper times and places and
15 convey the same when the appropriate tolls therefor
16 shall be paid and tendered ; and a lien is hereby cre-
17 ated on all articles transported for said tolls. And
18 the said corporation fulfilling on its part all and sing-
19 ular the obligations and duties by this section enjoined
20 and imposed upon it, shall not be held or bound to
21 allow any engine, locomotive, cars, carriages, or other
22 vehicle for the transportation of persons or merchan-
23 dise to pass over said railroad, other than its own,
24 furnished and provided for that purpose as herein
25 enjoined and required ; *provided however*, that said
26 corporation shall be under obligation to transport over
27 said road the passenger and other cars of any other
28 incorporated company that may hereafter construct a
29 railroad connecting with that hereby authorized, such
30 other company being subject to all the provisions of
31 the sixth and seventh sections of this act as to rates of
32 tolls and all other particulars enumerated in said
33 sections.

SEC. 12. If any person shall willfully and mali-
2 ciously, or wantonly and contrary to law obstruct the
3 passage of any carriage on said railroad, or in any

4 way spoil, injure or destroy said railroad or any part
5 thereof or any thing belonging thereto, or any mate-
6 rials or implements to be employed in the construction
7 of or for the use of said road, he, she or they or any
8 person or persons assisting, aiding or abetting such
9 trespass, shall forfeit and pay to said corporation for
10 every such offense treble such damages as shall be
11 proved before the justice, court or jury, before whom
12 the trial shall be had, to be sued for before any justi-
13 ces in any court proper to try the same, by the treas-
14 urer of the corporation or other officer whom they
15 may direct to the use of said corporation. And such
16 offender or offenders shall be liable to indictment by
17 the grand jury of the county within which trespass
18 has been committed for any offense or offenses con-
19 trary to the above provisions, and upon conviction
20 thereof before any court competent to try the same,
21 shall pay a fine not exceeding five hundred dollars to
22 the use of the state or may be imprisoned for a term
23 not exceeding five years at the discretion of the court
24 before whom such conviction may be had.

SEC. 13. Said corporation shall keep in a book for
2 that purpose, a regular account of all disbursements,
3 expenditures and receipts, and the books of said cor-

4 poration shall at all times be open to the inspection
5 of the governor and council, and of any committee
6 duly authorized by the legislature, and at the expira-
7 tion of every year, the treasurer of said corporation
8 shall make an exhibit under oath to the legislature, of
9 the net profits derived from the income of said rail-
10 road.

SEC. 14. All real estate purchased by said corpora-
2 tion for the use of the same, under the fourth section
3 of this act, shall be taxable to said corporation by the
4 several towns, cities and plantations in which said
5 lands lie, in the same manner as lands owned by pri-
6 vate persons, and shall in the valuation list be esti-
7 mated the same as other real estate of the same
8 quality, in such city, town or plantation and not other-
9 wise, and the shares owned by the respective stock-
10 holders, shall be deemed personal estate and be taxable
11 as such to the owners thereof in the places where they
12 reside and have their homes. And whenever the net
13 income of said corporation shall have amounted to
14 ten per centum per annum upon the cost of the road
15 and its appendages and incidental expenses, the di-
16 rectors shall make a special report of the fact to the
17 legislature, from and after which time one moiety of

18 such other portion as the legislature may from time
19 to time determine of the net income of said railroad
20 accruing thereafter over and above ten per centum
21 per annum, first to be paid to the stockholders, shall
22 annually be paid over by the treasurer of said corpo-
23 ration as a tax into the treasury of the state, for the
24 use of the state. And the state may have and main-
25 tain an action against said corporation therefor to
26 recover the same. But no other tax, than herein is
27 provided, shall ever be levied or assessed on said cor-
28 poration or any of their privileges or franchises.

SEC. 15. The annual meeting of the members of
2 said corporation shall be holden on the first Monday
3 of August, or such other day as shall be determined
4 by the by-laws, at such time and place as the directors
5 for the time being shall appoint, at which meeting the
6 directors shall be chosen by ballot, each proprietor by
7 himself or proxy being entitled to as many votes as
8 he holds shares. And the directors are hereby au-
9 thorized to call special meetings of the stockholders
10 whenever they shall deem it expedient and proper,
11 giving such notice as the corporation by their by-
12 laws shall direct.

SEC. 16. The legislature shall at all times have the

2 right to inquire into the doings of the corporation,
3 and into the manner in which the privileges and fran-
4 chises herein and hereby granted may have been used
5 and employed by said corporation, and to correct and
6 prevent all abuses of the same and to pass any laws
7 imposing fines and penalties upon said corporation
8 which may be necessary more effectually to compel a
9 compliance with the provisions, liabilities and duties
10 hereinbefore set forth and enjoined, but not to im-
11 pose any other or further duties, liabilities or obliga-
12 tions.

SEC. 17. If the said corporation shall not have
2 been organized and the location according to actual
3 survey of the route filed with the county commission-
4 ers of the county or counties through which the same
5 shall pass on or before the first day of December, in
6 the year of our Lord one thousand eight hundred
7 and fifty-five, or if said corporation shall fail to com-
8 plete said railroad on or before the first day of De-
9 cember, in the year of our Lord one thousand eight
10 hundred and sixty-two, in either of the abovementioned
11 cases this act shall be null and void.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, July 18, 1849.

ORDERED, That 350 copies of the foregoing Bill, (reported by the committee on railroads and bridges,) be printed for the use of the Legislature.

E. W. FLAGG, *Clerk.*