

# MAINE STATE LEGISLATURE

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DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1850.

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1850.

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# THIRTIETH LEGISLATURE.

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No. 28.]

[SENATE.

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## STATE OF MAINE.

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

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AN ACT to incorporate the European and North American  
Railway Company.

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

SECTION I. Elijah L. Hamlin, Anson G. Chandler,  
2 John A. Poor, Moses L. Appleton, Samuel P. Strick-  
3 land, Leonard March, Wyman B. S. Moor, Daniel  
4 W. Bradley, George W. Pickering, Waldo T. Pierce,  
5 Rufus Dwinal, Josiah S. Little, James B. Cahoon,  
6 Charles Q. Clapp, F. O. J. Smith, John B. Brown,  
7 John Anderson, George F. Shepley, Henry Carter,  
8 Thomas J. D. Fuller, John Stickney, George M.

9 Chase, George Downes, Noah Smith, junior, Ichabod  
10 R. Chadbourn, Bion Bradbury, James P. Wheeler,  
11 James S. Pike, Stephen R. Hanscom, John N. M.  
12 Brewer, and Stephen Emerson, their associates, suc-  
13 cessors and assigns are hereby made and constituted  
14 a body politic and corporate by the name of the  
15 European and North American Railway Company,  
16 and by that name may sue and be sued, plead and be  
17 impleaded, and shall have and enjoy all proper reme-  
18 dies at law and in equity to secure and protect them  
19 in the exercise and use of the rights and privileges  
20 and in the performance of the duties hereinafter  
21 granted and enjoined, and to prevent all invasion  
22 thereof or interruption in exercising and performing  
23 the same. And the said corporation are hereby au-  
24 thorized and empowered to locate, construct, and  
25 finally complete, alter and keep in repair a railway,  
26 with one or more sets of rails or tracks, with all suit-  
27 able bridges, tunnels, viaducts, turnouts, culverts,  
28 drains and all other necessary appendages, from the  
29 city of Bangor, over the most practicable route, in  
30 a line to the city of St. John, in New Brunswick, to  
31 the eastern boundary of the state; so as best to con-  
32 nect there with a railway to be constructed from said

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33 city of St. John to said eastern boundary, under a  
34 charter from said Province, with the like name as is  
35 used in this charter as the directors of said corporation  
36 in the exercise of their best judgment and discretion  
37 shall judge most favorable and best calculated to pro-  
38 mote the public convenience and carry into effect the  
39 intentions and purposes of this act. And said corpo-  
40 ration shall be and hereby are invested with all the  
41 powers, privileges and immunities, which are or may  
42 be necessary to carry into effect the purposes and ob-  
43 jects of this act as herein set forth. And for this pur-  
44 pose said corporation shall have the right to purchase  
45 or to take and hold so much of the land and other  
46 real estate of private persons and corporations, as may  
47 be necessary for the location, construction and con-  
48 venient operation of said railroad ; and they shall also  
49 have the right to take, remove and use for the con-  
50 struction and repair of said railroad and appurtenan-  
51 ces, any earth, gravel, stone, timber or other materi-  
52 als, on or from the land so taken. *Provided, however,*  
53 that said land so taken shall not exceed six rods in  
54 width, except where greater width is necessary for the  
55 purpose of excavation or embankment : *and provided,*  
56 *also,* that in all cases, said corporation shall pay for

57 such lands, estate or materials so taken and used, such  
58 price as they and the owner or respective owners  
59 thereof may mutually agree on ; and in case said par-  
60 ties shall not otherwise agree, then said corporation  
61 shall pay such damages as shall be ascertained and  
62 determined by the county commissioners for the  
63 county where such land or other property may be  
64 situated, in the same manner and under the same con-  
65 ditions and limitations, as are by law provided in the  
66 case of damages by the laying out of highways. And  
67 the land so taken by said corporation shall be held as  
68 lands taken and appropriated for public highways.  
69 And no application to said commissioners to estimate  
70 said damages shall be sustained unless made within  
71 three years from the time of taking such land or other  
72 property ; and in case such railroad shall pass through  
73 any woodlands or forests, the said company shall have  
74 the right to fell or remove any trees standing therein,  
75 within four rods from such road which by their lia-  
76 bility to be blown down or from their natural falling,  
77 might obstruct or impair said railroad, by paying a  
78 just compensation therefor, to be recovered in the  
79 same manner as is provided for the recovery of other  
80 damages in this act. And furthermore said corpora-

81 tion shall have all the powers, privileges and immuni-  
82 ties, and be subject to all the duties and liabilities,  
83 provided and prescribed respecting railroads in chap-  
84 ter eighty-one of the revised statutes, not inconsistent  
85 with the express provisions of this charter.

SECT. 2. When said corporation shall take any land  
2 or other estate as aforesaid, of any infant, person non  
3 compos mentis, or feme covert, whose husband is  
4 under guardianship, the guardian of such infant, or  
5 person non compos mentis, and such feme covert,  
6 with the guardian of her husband, shall have full power  
7 and authority to agree and settle with said corpora-  
8 tion, for damages or claims for damages, by reason of  
9 taking such land and estate aforesaid, and give good  
10 and valid releases and discharges therefor.

SECT. 3. The capital stock of said corporation shall  
2 consist of not less than ten thousand nor more than  
3 forty thousand shares ; and the immediate government  
4 and direction of the affairs of said corporation shall  
5 be vested in seven, nine or thirteen directors, who  
6 shall be chosen by the members of said corporation in  
7 the manner hereinafter provided, and shall hold their  
8 offices until others shall have been duly elected and  
9 qualified to take their places, a majority of whom

10 shall form a quorum for the transaction of business ;  
11 and they shall elect one of their number to be presi-  
12 dent of the board, who shall also be the president of  
13 the corporation ; and shall have authority to choose a  
14 clerk who shall be sworn to the faithful discharge of  
15 his duty ; and a treasurer, who shall be sworn and  
16 also give bonds to the corporation, with sureties to  
17 the satisfaction of the directors, in a sum not less than  
18 fifty thousand dollars for the faithful discharge of his  
19 trust. And for the purpose of receiving subscriptions  
20 to the said stock, books shall be opened under the  
21 direction of the three persons first named in the first  
22 section of this act, at such time as they may deter-  
23 mine, in the town of Calais, and the cities of Augusta,  
24 Bangor and Portland, in this state, and elsewhere as  
25 they shall appoint, to remain open for ten successive  
26 days, of which time and place of subscription, public  
27 notice shall be given in some newspaper printed in  
28 Portland, Augusta, Bangor and Calais, twenty days  
29 at least previous to the opening of such subscription ;  
30 and in case the amount subscribed shall exceed forty  
31 thousand shares, the same shall be distributed among  
32 all the subscribers, according to such regulations as  
33 the persons having charge of the opening of the sub-



34 scription books shall prescribe before the opening of  
35 said books. And the three persons first named in  
36 the first section in this act, are hereby authorized to  
37 call the first meeting of said corporation, by giving  
38 notice in one or more newspapers published in the  
39 town and cities last above named, of the time and  
40 place, and the purposes of such meeting, at least  
41 twenty days before the time mentioned in such  
42 notice.

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

SECT. 5. The president and directors for the time  
2 being, are hereby authorized and empowered, by  
3 themselves or their agents, to exercise all the powers  
4 herein granted to the corporation, for the purpose of  
5 locating, constructing and completing said railroad,  
6 and for the transportation of persons, goods and prop-  
7 erty of all descriptions, and all such power and au-  
8 thority for the management of the affairs of the cor-  
9 poration as may be necessary and proper to carry into

10 effect the objects of this grant ; to purchase and hold  
11 within or without the state, land, materials, engines,  
12 and cars and other necessary things, in the name of  
13 the corporation for the use of said road, and for the  
14 transportation of persons, goods and property of all  
15 descriptions ; to make such equal assessments from  
16 time to time, on all the shares in said corporation as  
17 they may deem expedient and necessary in the exe-  
18 cution and the progress of the work, and direct the  
19 same to be paid to the treasurer of the corporation.  
20 And the treasurer shall give notice of all such assess-  
21 ments ; and in case any subscriber or stockholder  
22 shall neglect to pay any assessment on his share or  
23 shares for the space of thirty days after such notice is  
24 given as shall be prescribed by the by-laws of said  
25 corporation, the directors may order the treasurer to  
26 sell such share or shares, at public auction, after giv-  
27 ing such notice as may be prescribed as aforesaid, to  
28 the highest bidder, and the same shall be transferred  
29 to the purchaser, and such delinquent subscriber or  
30 stockholder shall be held accountable to the corpora-  
31 tion for the balance, if his share or shares shall sell  
32 for less than the assessments due thereon, with the  
33 interest and costs of sale ; and shall be entitled to the

34 overplus if his share or shares shall sell for more than  
35 the assessments due, with interest and costs of sale ;  
36 *provided*, that no shareholder in said company shall  
37 be in any manner whatever, liable for any debt or  
38 demand due by said company, beyond the extent of  
39 his, her or their shares in the capital stock of said  
40 company not paid up ; and no assessment shall be  
41 laid upon any shares in said company of a greater  
42 amount in the whole, than one hundred dollars.

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

SECT. 7. The legislature may authorize any other  
2 company or companies to connect any other railroad

3 or railroads with the railroad of said corporation, at  
4 any points on the route of said railroad. And this  
5 company is hereby authorized to connect any railways  
6 they may construct under this charter, with any other  
7 railway existing or to be constructed within this state.  
8 And said corporation shall receive and transport all  
9 persons, goods and property of all descriptions, which  
10 may be carried and transported to the railroad of said  
11 corporation on such other railroads as may be hereaf-  
12 ter authorized to be connected therewith, at the same  
13 rates of toll and freight as may be prescribed by said  
14 corporation, so that the rates of freight and toll on  
15 such passengers, goods and other property as may be  
16 received from such other railroads, so connected with  
17 said railroad as aforesaid, shall not exceed the general  
18 rates of freight and toll on said railroad received for  
19 freight and passengers at any of the deposits of said  
20 corporation.

SECT. 3. 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 the said railroad, if necessary,  
12 may conveniently pass under or over the same, and  
13 erect such gate or gates thereon, as may be necessary  
14 for the safety of travelers on said turnpike, railroad,  
15 highway or private way.

SECT. 9. 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 rail-  
7 road.

SECT. 10. If said railroad shall in the course there-  
2 of, cross any tide waters, navigable rivers or streams,  
3 the said corporation are hereby authorized and em-  
4 powered to erect for the sole and exclusive travel on  
5 their said railroad, a bridge across each of said rivers  
6 or streams, or across any such tide waters: *provided,*

7 said bridge or bridges shall be so constructed as not  
8 unnecessarily to obstruct or impede the navigation of  
9 said waters.

SECT. 11. 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 inclosed or improved  
5 lands, or lands that may hereafter be improved ; and  
6 for neglect or failure to erect and maintain such fence,  
7 said corporation shall be liable to be indicted in the  
8 district court for the county where such fence shall  
9 be insufficient, and to be fined in such sum as shall be  
10 adjudged necessary to repair the same ; and such fine  
11 shall be expended for the erection or repair of said  
12 fence under the direction of an agent appointed by  
13 said court, as in case of fines imposed upon towns for  
14 deficiency of highways.

SECT. 12. The said corporation shall at all times,  
2 when the postmaster general shall require it, be hold-  
3 en to transport the mail of the United States from and  
4 to such place or places on said road as required, for  
5 a fair and reasonable compensation. And in case the  
6 corporation and the postmaster general shall be una-

7 ble to agree upon the compensation aforesaid, the  
 8 legislature shall determine the same. And said cor-  
 9 poration, after they shall commence the receiving of  
 10 tolls shall be bound at all times to have said railroad  
 11 in good repair, and a sufficient number of suitable  
 12 engines, carriages and vehicles for the transportation  
 13 of persons and articles, and be obliged to receive at  
 14 all proper times and places, and convey the same  
 15 when the appropriate tolls therefor shall be paid and  
 16 tendered, and a lien is hereby created on all articles  
 17 transported for said tolls. And the said corporation  
 18 fulfilling on its part all and singular the several obli-  
 19 gations and duties by this section imposed and en-  
 20 joined upon it shall not be held or bound to allow any  
 21 engine, locomotive, cars, carriages or other vehicle  
 22 for the transportation of persons or merchandize to  
 23 pass over said railroad other than its own, furnished  
 24 and provided for that purpose as herein enjoined and  
 25 required. *Provided, however,* that said corporation  
 26 shall be under obligations to transport over said road,  
 27 in connection with their own trains, the passenger and  
 28 other cars of any other incorporated company that  
 29 may hereafter construct a railroad connecting with

30 that hereby authorized; such other company being  
31 subject to all the provisions of the sixth and seventh  
32 sections of this act as to rates of toll, and all other  
33 particulars enumerated in said sections.

SECT. 13. 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 anything belonging thereto, or any material  
6 or implements to be employed in the construction or  
7 for the use of said road, he, she, or they, or any per-  
8 son or persons, assisting, aiding, or abetting such  
9 trespass, shall forfeit and pay to said corporation for  
10 every such offence, 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 justice  
13 or 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 shall have been committed, for any offence or offences,  
19 contrary to the above provisions; and upon convic-



20 tion thereof before any court competent to try the  
 21 same, shall pay a fine not exceeding five hundred  
 22 dollars, to the use of the state, or may be imprisoned  
 23 for a term not exceeding five years, at the discretion  
 24 of the court before whom such conviction may be had.

SECT. 14. Said corporation shall keep in a book  
 2 for that purpose a regular account of all their dis-  
 3 bursements, expenditures and receipts, and the books  
 4 of said corporation shall at all times be open to the  
 5 inspection of the governor and council, and of any  
 6 committee duly authorized by the legislature ; and at  
 7 the expiration of every year, the treasurer of said  
 8 corporation shall make an exhibit under oath to the  
 9 legislature, of the net profits derived from the income  
 10 of said railroad.

SECT. 15. All real estate purchased by said corpo-  
 2 ration for the use of the same under the fifth 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 town, city 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  
12 they reside and have their home. And whenever the  
13 net income of said corporation shall have amounted  
14 to ten per centum per annum upon the cost of the  
15 road and its appendages and incidental expenses, the  
16 directors shall make a special report of the fact to the  
17 legislature ; from and after which time one moiety or  
18 such other portion as the legislature may from time  
19 to time determine, of the net income from said rail-  
20 road accruing thereafter over and above ten per  
21 centum per annum first to be paid to the stockholders  
22 shall annually be paid over by the treasurer of said  
23 corporation, as a tax, into the treasury of the state  
24 for the use of the state. And the state may have and  
25 maintain an action against said corporation therefor  
26 to 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.

SECT. 16. The annual meeting of the members of  
2 said corporation shall be holden on the last Wednesday  
3 in July, or such other day as shall be determined by

4 the by-laws, at such time and place as the directors  
5 for the time being shall appoint, at which meeting,  
6 the directors shall be chosen by ballot, each proprietor  
7 by himself or proxy, being entitled to as many votes  
8 as 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-laws  
12 shall direct.

SECT. 17. The legislature shall at all times have the  
2 right to inquire into the doings of the corporation and  
3 into the manner in which the privileges and franchises  
4 herein and hereby granted may have been used and  
5 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  
9 a compliance with the provisions, liabilities and duties,  
10 hereinbefore set forth and enjoined, but not to impose  
11 any other or further duties, liabilities, or obligations.  
12 And this charter shall not be revoked, annuled, altered,  
13 limited or restrained without the consent of the cor-  
14 poration, except by due process of law.

SECT. 18. 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 counties through which the same shall pass,  
5 on or before the thirty-first day of December, in the  
6 year of our Lord one thousand eight hundred and  
7 fifty-five, or if the said corporation shall fail to com-  
8 plete said railroad on or before the thirty-first day of  
9 December, in the year of our Lord one thousand  
10 eight hundred and sixty-five, in either of the above  
11 mentioned cases, this act shall be null and void.

SECT. 19. Said company shall not engage in, nor  
2 commence the construction of any section or sections  
3 of said railway, until seventy-five per centum of the  
4 estimated cost of said section or sections shall have  
5 been subscribed for by responsible persons.

SECT. 20. If said provinces or either of them shall,  
2 in any legal way and manner, constitute this com-  
3 pany a company within its limits and jurisdiction, this  
4 company is hereby authorized and empowered to  
5 exercise within said limits and jurisdiction of such  
6 province all the rights and powers and shall have and

7 enjoy all the privileges and immunities which it could  
8 have, exercise or enjoy within this state.

SECT. 21. The said European and North American  
2 Railway Company are hereby authorized and em-  
3 powered to contract with the government of the  
4 United States and any foreign government or power  
5 for the carrying of the mail of any such government  
6 or power over or within any of the territories where  
7 said company may exercise or enjoy any of the powers,  
8 privileges or immunities herein granted to it.

## STATE OF MAINE.

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IN SENATE, Aug. 9, 1850.

ORDERED, That 500 copies of the foregoing bill, (reported by the committee on railroads and bridges,) be printed for the use of the Legislature.

A. H. SMALL, *Secretary*