

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE

EXTRA SESSION OF 1853, AND SESSION OF 1854.



Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1854.

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# THIRTY-THIRD LEGISLATURE.

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SENATE.

No. 17.

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## STATE OF MAINE.

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

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AN ACT to amend an act to establish the Atlantic  
and Junction Railroad.

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

SECTION 1. Charles Q. Clapp and Asa W. H.  
2 Clapp, of Portland ; Edward Payson, John Reed,  
3 Samuel Jordan and Levi Morrill, of Westbrook, their  
4 associates and assigns, are hereby authorized to con-  
5 struct and maintain a railroad, not exceeding four  
6 rods in width, extending from the present joint termi-  
7 nus and depot buildings of the railroads entering the  
8 city of Portland on the west side, to a point or points  
9 of connection with the Atlantic and St. Lawrence  
10 railroad, not more than one mile north of the northern

11 shore of the outlet of Back Cove, and located in such  
12 direction between the back cove road and the cove,  
13 as to enter the cove from the north, by the line and  
14 within the bed of the first ravine or creek, west of  
15 back cove bridge; and may operate and use the  
16 same, in like manner, and with such privileges, lia-  
17 bilities and duties, as are, or may be provided for  
18 other railroads, by the general laws of this state.  
18 *Provided, however,* that said railroad shall not be  
19 joined to, or connect with, said Atlantic and St. Law-  
20 rence railroad, without first obtaining the consent of  
21 the Atlantic and St. Lawrence Railroad Company  
22 therefor; nor shall said railroad be constructed across  
23 the road connected with Tukey's bridge, in the town  
24 of Westbrook, at grade.

SECT. 2. The grantees, their associates and assigns,  
2 shall have all such powers, in respect to taking land  
3 for the location, construction, and operation of said  
4 railroad, and shall be subject to all such duties and  
5 liabilities in respect thereto, as are prescribed in the  
6 first section of the act to establish the Atlantic and  
7 St. Lawrence Railroad Company; and shall have  
8 such further powers and privileges, and be subject to  
9 all such further restrictions, duties, provisions, reme-

10 dies and liabilities, as may now exist, or may here-  
11 after be prescribed, in respect to railroads within this  
12 state, by any general laws. *Provided, however,* that  
13 said grantees shall have no power to enter upon, or  
14 use, any real estate taken under this act, except for  
15 the purpose of making surveys, until they shall have  
16 paid the owners thereof, such sums as may have been  
17 mutually agreed upon as damages; or until they  
18 shall have procured an estimation of such damages,  
19 in manner provided by law, and shall have tendered  
20 to persons entitled to receive the same, the amount  
21 of damages, so estimated, with all costs; or, if the  
22 title to any lands taken under this act, shall be in dis-  
23 pute, or the owner thereof unknown, shall have  
24 deposited with the treasurer of the county of Cum-  
25 berland, subject to the order of the persons entitled  
26 to receive the same, the amount of damages, so esti-  
27 mated, with all costs, and the acceptance of the  
28 amount, so tendered, shall not bar any right of ap-  
29 peal, as provided by law; but the said grantees shall  
30 have the right to extend the width of the railroad,  
31 upon the cove beyond, four rods, so as to connect  
32 with the westerly side of the channel, by the erection  
33 of piers, or otherwise, on such portion of the flats as

34 lie at such distance from the respective shores, as to  
35 be beyond the privilege of private ownership ; but  
36 the occupation of the said flats shall be limited to  
37 such an extent, that the present easterly channel may  
38 be extended to the width of eight hundred feet, west-  
39 erly from the easterly side thereof.

SECT. 3. The said parties shall have authority to  
2 assign or release to the Atlantic and St. Lawrence  
3 Railroad Company, all their interest and franchise  
4 granted and acquired, under this act and incorpora-  
5 tion, to whom the same may be so assigned or leased,  
6 and the said Atlantic and St. Lawrence Railroad  
7 Company shall have all the powers, and be subject to  
8 all the duties herein granted and prescribed.

SECT. 4. The said corporation shall be required to  
2 construct and maintain a draw across the channel of  
3 Back Cove as it now stands sufficient to permit the  
4 passage of all such vessels as may have occasion to  
5 pass and repass the waters of said Back Cove, and  
6 should the said road be constructed of solid material,  
7 sufficient aperture or apertures shall be left open to  
8 allow the usual ebb and flow of the tide upon the  
9 flats on the westerly side of said road.

SECT. 5. The capital stock of said company shall

2 not exceed one hundred and fifty thousand dollars,  
3 and shall be divided into shares of one hundred  
4 dollars each, and the said corporation, after its or-  
5 ganization, shall open books for subscriptions to  
6 stock and keep the same open therefor for the period  
7 of three days, first giving public notice in one of the  
8 daily papers published in the city of Portland, of the  
9 time and place where said books shall be so opened,  
10 for the space of one week prior to the said books  
11 being so opened.

SECT. 6. Said grantees shall be allowed two years,  
2 in which to complete said railroad, from and after  
3 the first day of October next.

## PROPOSED AMENDMENTS.

## A.

After the word “therefor” in line 22 of section 1,  
insert :

Nor shall said railroad be located without the con-  
2 sent of the said Atlantic and St. Lawrence Railroad  
3 Company to such junction being first had, and ob-  
4 tained.”

Strike out the last clause of section 2, and insert :

“ And *provided further*, that if by the construction  
2 of such railroad, any injury, direct or consequential,  
3 shall be done to any lands or flats lying in or about  
4 said cove, not taken for the location, construction and  
5 operation of said road, whereby the value of such  
6 lands or flats shall be diminished, the owner of any  
7 such lands or flats, and any person injured in his  
legal occupation thereof, may at any time within  
9 three years after damages shall have so accrued, or  
10 after said railroad shall have been put in operation,  
11 have his remedy for such injury by complaint to the  
12 county commissioners for the county of Cumberland,



13 as in case of lands taken for railroad purposes under  
14 existing laws, together with all other remedies pro-  
15 vided by law for enforcing the payment of such dam-  
16 ages.”

Add to section 4 as follows :

“ And the said railroad shall be so built as not to ob-  
2 struct, or diminish, in any manner, or to any extent,  
3 the channel in Back Cove, as it now exists; nor  
4 shall any wharf, pier, or other erection, be con-  
5 structed within such distance of either side of said  
6 channel as to obstruct the convenient passage of ves-  
7 sels up and down the same, as the same have been  
8 accustomed to pass. And any erections made con-  
9 trary to the foregoing provisions shall be considered  
10 a nuisance, and liable to all the legal provisions rela-  
11 tive to nuisances.

STATE OF MAINE.

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IN SENATE, April 7, 1854.

This bill (reported by Mr. Davis, from the Committee on Railroads and Bridges, on petition of Charles Q. Clapp and others) was read once, and Tuesday next, 10 o'clock, assigned for a second reading, and

*Ordered*, That 350 copies of said Bill, with the amendments marked A, be printed for the use of the Legislature.

WILLIAM TRAFTON, *Secretary*.