

# 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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HOUSE.

No. 31.

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## REPORT

*Of the Committee on the Judiciary, on the petition of Messrs.  
Hudson and Titcomb, for Telegraph Company.*

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The Committee on the Judiciary, to which was referred the petition of Messrs. Hudson and Titcomb, for a charter to construct lines of telegraph through and over this State, and numerous remonstrances against the same, and also an order directing the Committee to inquire into the expediency of a general telegraph law, have had the same under consideration, and submit the following report:

The petitioners, residents of the State of Massachusetts, represent the "Bain" telegraphic line between Portland and Boston, which was proved to the Committee to be in a state of decay, embarrassed, paying no dividends upon its stock, which is nearly worthless, and having never paid any.

The order was presented by the instrumentality of the same petitioners, for the purpose (as the Committee believe) of accomplishing their object by means of a general law—inasmuch as there has been no expression of the popular sentiment in favor of any such law.

Under a charter granted by this State in 1848, about three hundred citizens residing in Bath, Damariscotta, Waldoboro', Thomaston, Rockland, Belfast, Bangor, Ellsworth, Eastport

and Calais erected a line of telegraph from Portland through said towns to the New Brunswick frontier. Under a similar charter, granted in 1850, citizens of Augusta, Hallowell, Gardiner and Richmond constructed a line from Augusta to Bath, at which point it connected with the line of the Maine Telegraph Company.

The said Maine Telegraph Company purchased of Professor Morse and his associates, the rights of working their lines under his American patents, which have recently been confirmed in every essential particular by the full bench of the Supreme Court of the United States. Without such purchase, they could not have used said lines except by infringement of the rights secured to said Morse under the laws of the United States, and the recent decision of the Supreme Court cuts off the use of any and every other mode yet tried in this country.

The lines erected by said Maine Telegraph Company from Portland to Calais are 310 miles long, and cost, including the patents, \$50,000. The decay of poles, the rusting of wires, and the lapse of the existence of the patents, are equal to ten per cent. per annum on the entire cost. The line above mentioned will not last more than five years longer, and in six years the patents will have expired. The depreciation, therefore, in the value of the property, has been equal in all to fifty per cent. of its cost, or \$25,000. The entire amount of earnings for five years, over and above the current expenses of the line, as shown by the exhibit of the treasurer of the company has been \$38,500. If we deduct from this amount the depreciation, \$25,000, we find a remainder of \$13,500, or five and two-fifths per cent. per annum on the investment.

The company has not made the reservations for renewal, but has divided nearly the whole amount earned, preferring to make larger reservations during the last half of the period the line is expected to last. Any person who investigates the subject must see that thus far the company's stock has not proved equal to money bearing interest at six per cent.

It appears further, that in order to make the line as efficient as possible, and to prevent delays or disappointments to cus-

tomers, the company has found it necessary to purchase and work in connection with their former line, one from Portland to Boston, which they must at once rebuild because of its dilapidated condition; and they propose, if their ability be not crippled by rival interests, to erect a second wire from Portland to Bangor, touching at points which the present lines do not accommodate. In carrying out these purposes they have already expended \$25,000, making their whole investment \$75,000, and to complete the improvements, more than \$25,000 additional is required. By reason of the efforts of this company controlled by our own citizens, the smaller towns throughout the State are being accommodated, whilst the effort on the part of these petitioners to obtain a rival line is only intended to reach the large paying points, and to obtain the through business from the Provinces, without which it is shown no line can be sustained; and if their effort is successful, it is clear that stations will not be opened or maintained by either line at points which yield no profit.

It is admitted on all hands, and all the evidence before the Committee goes to prove, that there are no complaints existing against the Maine Telegraph Company—that its lines have been judiciously, faithfully and impartially managed, in every particular. It is also proved by comparison of the tolls of this Company with those of lines on the twenty principal routes in all parts of the United States that their rates, according to length of line, are lower on *long* messages than the rates of *every* other except one; and on *short* messages lower than fourteen of the twenty with which they are thus compared. On ten of these fourteen routes there are competing lines. And a letter of the Secretary of the "American Telegraph Confederation" to the Superintendent of the Maine Company, dated at Washington, January 29, 1854, is in evidence, and contains the following passage: "As to the increase of tariffs, there is a universal disposition to raise all over the country, and I have made corrections of an *increase* in February tariff with eighty offices. Your line is the only one making a re-

duction." It is therefore clear that there can be no complaint of exorbitant tolls, but on the contrary, said Company has *voluntarily* adopted a tariff more reasonable than that of a large majority of the lines of the country, even where there is the most active competition. It is also shown that upon the great routes from New York to Albany and Buffalo; to Philadelphia and Washington; to New Orleans; from Buffalo to Detroit; from Detroit to Chicago and Milwaukee, and others, where there is competition, the rates remain equally as high since competition has been introduced as they were before. And the reason of this is obvious, for with double the amount of capital invested, and carried on at double the expense, the lines cannot afford so low a tariff, unless there be business enough to give full employment to the increased number of lines. Yet it is proved that the Maine Company has furnished facilities more than equal to the demand upon them, and, to be prepared for every emergency, desires so to increase them that there can be no possible failure in this respect. It is proved that the two lines between Portland and Boston, which have been worked in competition with each other for four years, and upon both of which the rates have been uniformly higher than those of the Maine Company, have neither of them ever paid a dividend, and have now become dilapidated and decayed; they require immediate renewal; and debts beside, to a large amount, remain outstanding against the "Bain" line.

The proof establishes beyond a doubt that the Maine Company has discharged its duties impartially, and disproves entirely the allegation that said Company is in any way under the control of the New York Associated Press, or any other press, or that it has ever given any press or individual priority or preference over others. It declares and proves its readiness to transmit despatches for all on equal terms, sending every despatch in the order in which they receive it, and furnishing as many wires as the business, which offers, shall require for prompt transmission.

In view of all the facts, your Committee believe that the construction of rival telegraph lines through this State would

not result in any benefit or advantage to its citizens; that the public would not be better accommodated, that the rates of charges would be rather increased than diminished, and that stations would not then be opened or maintained, as they have been by the Maine Company, in towns that afforded no profit to the lines. And further, that the profits of the present company have not been in any degree excessive; that the construction of rival lines, dividing the business, must result in destroying the value or profitableness of the present lines, and as they go down from decay there would be no inducement to rebuild or maintain them, and that by the construction of lines owned out of the State, not only nothing is added to the taxable property of the State, but the value of property which now pays taxes here would be impaired or destroyed, and consequently the taxable property be by so much reduced.

The whole question is one of deep interest to the public. The telegraph is closely interwoven with the business and the social relations of the community. In its management the highest integrity, fidelity and impartiality are required. It must be conducted with energy, promptness, efficiency and liberality. It is but justice to the Maine Telegraph Company to remark, that under the skillful direction of its Superintendent, it has attained a high reputation in all these respects being confessedly the best managed line of telegraph in the United States; and in the opinion of your Committee it is entitled to the favorable consideration and protection of the Legislature, as a matter of justice to the corporation as well as for the benefit of the public. Your committee perceive no necessity or propriety in granting a charter to Messrs. Hudson and Titcomb, nor in passing a general law.

Three hundred of the citizens of this State have invested their money in a public enterprise, under the sanction of a charter from this State and upon the implied pledge that so long as they should perform the duties imposed upon them by the laws of the State, faithfully and impartially, and until the public convenience and necessity should require an extension

of telegraphic facilities, they should be protected from unnecessary competition or rivalry. It is not pretended that a period of any such exigency has arrived. Were this corporation faithless to its duties, unjust in its exactions, unequal to the performance of the whole business of the community, and reaping an unreasonable amount of revenue, the question of admitting competition might well be considered—but such is not the case.

It has been the policy of this State, and one of the great sources of its prosperity, to protect investments in public enterprises from an unnecessary and unreasonable competition. Retaining, as does the Legislature, the right to alter, amend or annul any charter which may be granted, it can always protect the people from the exactions or oppressions of corporations, so that, under our present system, no odious monopoly can exist.

In the opinion of your Committee, it would not be a judicious or wise State policy, at the present time, to grant the prayer of these petitioners, or enact a general law opening this field of enterprise to unrestricted competition. Your Committee therefore report, that the petitioners have leave to withdraw, and that legislation upon said order is inexpedient.

A. W. JOHNSON, *Per Order.*



## MINORITY REPORT.

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THE undersigned, a minority of the Committee on the Judiciary, to which was referred an order instructing said committee to inquire into the expediency of enacting a general law for the incorporation and government of Telegraph Companies, being unable to agree with the majority of said committee, ask leave to report a bill herewith submitted.

J. H. HILLIARD,  
J. L. CUTLER,  
L. M. MORRILL.

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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 relating to Telegraph Companies.

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

SECTION 1. Any number of persons may associate  
2 for the purpose of constructing telegraph lines within  
3 this state, upon the terms and conditions, and sub-  
4 ject to the liabilities prescribed in this act.

SECT. 2. Such association is authorized to con-  
2 struct lines of telegraph along and upon any of  
3 the public roads and highways, or across any of the  
4 waters within the limits of this state, by the erection  
5 of the necessary fixtures, including posts, piers or  
6 abutments, for sustaining the wires of such lines ;  
7 *provided*, the same shall not be so constructed as to  
8 incommode the public use of said roads or highways,  
9 or injuriously affect the navigation of said waters ;  
10 nor shall this act be construed to authorize the con-

11 struction of any bridge across any of the waters of  
12 this state.

SECT. 3. If any person, upon or near whose lands  
2 said lines may be constructed, shall consider himself  
3 aggrieved or damaged thereby, it shall be the duty of  
4 the mayor and aldermen of the city, or the selectmen  
5 of the town, in which such lands are, on the written  
6 application of such person, and after written notice to  
7 any member of such association, to inspect said lines ;  
8 and if in their judgment alteration to relieve such  
9 grievance can be made without defeating the objects  
10 of this act, they may direct such alteration to be  
11 made ; and for any unreasonable neglect or refusal  
12 to make such alteration, the members of such associa-  
13 tion shall be jointly and severally liable to a penalty  
14 not exceeding the sum of one hundred dollars.  
15 But if such alteration cannot be made without defeat-  
16 ing the purposes of this act, said mayor and alder-  
17 men, or selectmen, may make a just and equitable  
18 appraisal of all the loss or damage sustained by said  
19 applicant, by reason of such construction of said  
20 lines ; and written duplicates of such appraisement  
21 shall be made and delivered, one copy to the appli-  
22 cant, and one copy to any member of said association ;

23 and in case any damage shall be adjudged to such  
24 applicant, the members of the association shall be  
25 jointly and severally liable therefor, together with the  
26 costs of such appraisal; said costs to be liquidated  
27 and ascertained in said award. Said mayor and  
28 aldermen, or selectmen, shall receive each two dollars  
29 for every day necessarily employed in making such  
30 appraisal, and if no damages are allowed to said  
31 applicant, he shall be held liable for said costs.

SECT. 4. Any person who shall intentionally and un-  
2 lawfully injure, molest or destroy, any of said lines,  
3 posts, piers or abutments, or the materials or property,  
4 connected with, or belonging to any such lines, shall,  
5 on conviction thereof, be deemed guilty of a misde-  
6 meanor, and be punished by a fine not exceeding five  
7 hundred dollars, or imprisonment in the county jail  
8 not exceeding one year, or both, at the discretion of  
9 the court before which the conviction shall be had.

SECT. 5. Any association or company, organized  
2 for the purpose of constructing, maintaining or using,  
3 lines of telegraph within this state, may organize as  
4 a corporation, by filing in the office of the secretary of  
5 state the unanimous vote of the members of such  
6 association or company, for that purpose, and the

7 name adopted for such corporation, together with a  
8 list of the names of its members, the amount of its  
9 liabilities, the amounts of its capital voted and paid  
10 in, and the location and extent of its lines, all of which  
11 shall be sworn to by some proper officer of said asso-  
12 ciation. *Provided*, that such intention, together with  
13 the before named statements, shall have been pub-  
14 lished in any paper printed by the printer of the  
15 state; or if there be no such paper, then in any paper  
16 printed in the county, city or town, in which the  
17 principal office of such association or company is  
18 located, at least two months successively before such  
19 last named organization; and when so organized, in  
20 compliance with the provisions of this section, such  
21 corporation shall exercise all the rights and privileges,  
22 and be subject to all the restrictions and liabilities  
23 provided by the general laws of this state, and by the  
24 several acts establishing similar corporations.

SECT. 6. This act shall take effect from and after  
2 its passage.

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
April 6, 1854. }

ORDERED, That 350 copies of these Reports, together with the Bill accompanying the same, be printed for the use of the Legislature.

JOHN J. PERRY, *Clerk.*