

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

---

SIEVENS & SAYWARD, PRINTERS TO THE STATE.

1860.

---

---

# THIRTY-NINTH LEGISLATURE.

---

HOUSE.

No. 34.

---

## GOVERNOR'S MESSAGE

*Vetoing "An Act to incorporate the Somerset Railroad Company."*

---

*Gentlemen of the House of Representatives:*

A Bill entitled "An Act to incorporate the Somerset Railroad Company" having passed both branches of the Legislature is presented to me. I have attentively considered the same, and being constrained to withhold my approval, I herewith return it with a statement of my objections.

The act contains an express limitation of the power of the Legislature over the corporation thereby created. Such provision is of questionable propriety in any case, and is especially objectionable in this class of corporations, whose franchise partakes, so essentially, of the delegated quality of sovereignty. The power granted to railroad corporations to interfere with, and, to a great extent engross the public travel and business of internal communication, is exclusively the prerogative of the State. It is only upon the ground of public emergency that the power is to be granted at all; and the Legislature is to judge of the existence and continuance of such emergency, and therefore it would seem, should never part with its power to determine, at all times, what the public interests demand. A corporation upon which, in addition to the power to transact business common to individuals, is conferred prerogatives peculiar to the State, and which, under such

powers, assumes to deal with the modes of public intercommunication, the highways of business and travel, must necessarily, in this respect, be held in subjection to the sovereign supervisory power. To the full extent of determining, at all times, what the public interests require in all questions involving its peculiar prerogatives, absolute sovereignty always resides in the State; and however it may impart this power, for the time, for the public convenience, it can never wholly resign it. In harmony with these views are the provisions of the general statute of the State, which define the powers, duties and liabilities of corporations, and which subject acts of incorporation to the liability to be amended, altered or repealed by the Legislature. These general provisions were obviously enacted to declare the policy of the State, as to its control over all acts of incorporation, and they expressly subject them to the power of the Legislature. The provision in question is in conflict with this policy, and contains an express limitation of the general law, in the particular above mentioned.

The charter of this company contains other provisions which are repugnant to the policy and express regulations of the law of eighteen hundred and fifty-eight, entitled, "An Act to secure the safety and convenience of travelers on railroads." This act provides for a "board of railroad commissioners, with powers to determine the time and terms of connection and junction, or crossing of railroads," in cases of failure of parties interested to agree on the same. No provision is made in this charter for such connections, or crossing, and by its terms no other or further duties, liabilities or obligations than are specified therein can be imposed. Under said act said commissioners have the power to determine "the rates at which passengers and merchandise coming from one road are transported over another," on failure of the managers of said roads to agree. By the provisions of the charter, these rates are to be established by the directors of the corporation, against the intervention of said commissioners. It is further provided that, when railroads cross each other, regard shall be had to the time of crossing and junction, and that they shall pause long enough to afford opportunity to passengers to be changed from one train to the other. This charter is not subjected to this provision, but is exempted from its operation. The act is, in a word, in many particulars, repugnant to all the essential provisions and regulations of the act of eighteen hundred and fifty-eight, enacted to secure,

through the intervention of a board of commissioners, the safety and convenience of the public travel, and nullifies all the essential powers of said commissioners as respects this corporation. It is to be presumed that the Legislature do not intend to grant railroad charters containing provisions in conflict with the general policy, and laws of the State, and I have thought it not improbable that this conflict had been overlooked, as this charter seems to have been drawn, in part, from similar acts passed at a period anterior to the general provisions mentioned.

The suggestion will the more readily be pardoned when attention is called to the fact that while I have this bill before me the public emergency is supposed to demand the passage of an act entitled "An Act to promote safety of travel on railroads," now presented for approval, containing a most stringent provision, designed to restrain other railroad corporations in the exercise of powers that are clearly granted to this company; which by the terms of its charter, cannot be restrained.

LOT M. MORRILL.

COUNCIL CHAMBER, }  
March 17, 1860. }

# STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES, }  
March 17, 1860. }

On motion of Mr. Wells, of Freeport, laid on the table, and 350  
copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER, *Clerk.*