

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.

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1864.

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# FORTY-THIRD LEGISLATURE.

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SENATE.

No. 10.

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## STATE OF MAINE.

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

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AN ACT to incorporate the Brewer Branch Railroad Company.

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

SECTION 1. Joshua Chamberlain, Ambrose C. Wilson,  
2 Joab W. Palmer, Deodat Brastow, George M. Wes-  
3 ton, their associates, successors and assigns, are hereby  
4 made and constituted a body corporate and politic, by  
5 the name of the Brewer Branch Railroad Company,  
6 and by this name may sue and be sued, plead and  
7 be impleaded, and shall have and enjoy all proper  
8 remedies at law and in equity to secure and protect  
9 them in the exercise and use of the rights and privi-  
10 leges and in the performance of the duties hereinafter

11 granted and enjoined, and to prevent all invasion  
12 thereof, or interruptions in exercising and performing  
13 the same, and the said corporation is authorized and  
14 empowered to locate, construct and finally complete,  
15 alter and keep in repair, a branch railroad, with one  
16 or more sets of rails or tracks, with all suitable bridges,  
17 tunnels, viaducts, turnouts, drains and all other neces-  
18 sary appendages, from some point in Bangor, at or  
19 above Treat's Falls, so called, between Bangor and  
20 Brewer, and across said falls between Bangor and  
21 Brewer, with right to build a bridge across said falls,  
22 and to connect with the European and North American  
23 Railroad Company in said Bangor; thence to follow  
24 down the shore of Penobscot river to and along the  
25 wharves and wharf privileges below the Bangor bridge  
26 to Brewer village; and said corporation are hereby in-  
27 vested with all the powers, privileges and immunities,  
28 which are or may be necessary to carry into effect the  
29 purposes and objects of this act as herein set forth;  
30 and for this purpose said corporation shall have the  
31 right to purchase or to take and hold so much of the  
32 land and real estate of private persons and corporations  
33 as may be necessary for the location, construction and  
34 convenient operation of said railroad and branches; and  
35 they shall also have the right to unite with any other

36 corporation authorized to construct a dam at Treat's  
37 Falls, for the purpose of making use of the water  
38 power of the Penobscot river for manufacturing pur-  
39 poses, and to construct such branch lines of railway as  
40 may be necessary to carry into effect the objects and  
41 purposes of the company ; and they shall also have  
42 the right to take, remove and use for the construction  
43 and repair of said railroad and appurtenances, any  
44 earth, gravel, stone or other materials on or from the  
45 land so taken ; *provided however*, that this land so  
46 taken shall not exceed six rods in width, except where  
47 greater width is necessary for the purposes of excava-  
48 tion or embankment ; *and provided also*, that in all  
49 cases said corporation shall pay for such lands, estate  
50 or materials, so taken and used, such price as they and  
51 the owner or respective owners thereof may mutually  
52 agree upon ; and in case said parties shall not other-  
53 wise agree, the said corporation shall pay such dama-  
54 ges as shall be ascertained and determined by the  
55 county commissioners for the county of Penobscot, in  
56 the same manner and under the same conditions and  
57 limitations as are by law provided in the case of dam-  
58 ages by the laying out of highways ; and the land so  
59 taken by said corporation shall be held as lands taken  
60 and appropriated for highways. And no application

61 to said commissioners to estimate said damages shall  
62 be sustained unless made within three years from the  
63 time of taking such land or other property. And said  
64 corporation may construct docks and extend wharves  
65 into the Penobscot river for the purposes of their com-  
66 pany, under such regulations and restrictions as may  
67 be prescribed therefor by the county commissioners for  
68 the county of Penobscot aforesaid; in the construction  
69 of the bridge across the Penobscot river, said company  
70 shall conform to such plans and regulations for the pas-  
71 sage of rafts through said bridge or through any canal  
72 constructed for such purpose, and for the necessary fish  
73 ways and other necessary purposes, as shall from time  
74 to time be prescribed by said county commissioners.  
75 The said corporation may lease or sell its line and all  
76 its improvements to the European and North American  
77 Railway Company, which latter company is hereby  
78 authorized to enter into such contract of sale or lease,  
79 and the directors of the two corporations may enter  
80 into such contract for the running of the road and for  
81 the purchase, lease or sale thereof, as the directors of  
82 the two companies, in the exercise of their best judg-  
83 ment and discretion may deem for the advantage of  
84 their respective corporations, subject to the approval  
85 of the stockholders in each corporation.

SECT. 2. The capital stock of said corporation shall  
2 consist of not less than one thousand nor more than  
3 ten thousand shares, and the immediate government  
4 and direction of the affairs of said corporation shall be  
5 vested in three, five, or seven directors, who shall be  
6 chosen by the members of said corporation, in the  
7 manner hereinafter provided, and shall hold their office  
8 until others shall have been duly elected and qualified  
9 to take their place, a majority of whom shall form a  
10 quorum for the transaction of business, and they shall  
11 elect one of their number to be president of the cor-  
12 poration, and shall have authority to choose a clerk  
13 who shall be sworn to a faithful discharge of his duty,  
14 and a treasurer who shall be sworn, and also give  
15 bonds to the corporation, with sureties to the satisfac-  
16 tion of the directors, in a sum not less than ten thous-  
17 and dollars, for the faithful discharge of his trust ;  
18 and for the purpose of receiving subscription to the  
19 said stock, books shall be opened under the direction  
20 of the persons named in the first section of this act, at  
21 such time as they may determine, in the city of Ban-  
22 gor, and elsewhere, as they shall appoint, to remain  
23 open for five successive days at least, of which time  
24 and place of subscription, public notice shall be given  
25 in one of the newspapers printed in the city of Bangor,

26 ten days before the opening of such subscription ; and  
27 any three of the persons named in the first section of  
28 this act are hereby authorized to call the first meeting  
29 of said corporation, for the choice of directors and  
30 organization, by giving notice in one or more newspa-  
31 pers published as before named, of the time and place  
32 and purposes of such meeting, at least fourteen days  
33 before the time mentioned in such notice.

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

SECT. 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 here-  
4 in 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 powers and author-



8 ity for the management of the affairs of said 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 things  
12 in the name of the corporation, for the use of said  
13 road, and for the transportation of goods and property  
14 of all description, to make such equal assessment from  
15 time to time on all the shares in said corporation as  
16 they may deem expedient and necessary in the execu-  
17 tion and progress of the work, and direct the same to  
18 be paid to the treasurer of this corporation. And the  
19 treasurer shall give notice of all such assessments ;  
20 and in case any subscriber or stockholder shall neglect  
21 to pay any assessment on his share or shares, for the  
22 space of thirty days after such notice is given as shall  
23 be prescribed by the by-laws of said corporation, the  
24 directors may order the treasurer to sell such share or  
25 shares at public auction, after giving such notice as  
26 may be prescribed, as aforesaid, to the highest bidder,  
27 and the same shall be transferred to the purchaser, and  
28 such delinquent subscriber or stockholder shall be held  
29 accountable to the corporation for the balance, if his  
30 share or shares shall sell for less than the amount of  
31 the assessments due thereon, with the interest and  
32 costs of sale, and shall be entitled to the over-plus,

33 if his share or shares shall sell for more than the  
34 assessments due with interest and costs of sale ;  
35 *provided however*, that no assessment shall be laid upon  
36 any shares in said corporation of a greater amount in  
37 the whole than one hundred dollars.

SECT. 5. 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 be  
4 conveyed or transported by them upon said road, at  
5 such rate as may be agreed upon and established, from  
6 time to time by the directors of said corporation. The  
7 transportation of persons and property, the construc-  
8 tion of wheels, the form of cars and carriages, the  
9 rights of roads, and all other matters and things in  
10 relation to said road shall be in conformity with such  
11 rules, regulations and provisions, as the directors from  
12 time to time prescribe and direct.

SECT. 6. 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 point on the route of said railroad. And said  
5 corporation shall receive and transport all persons,  
6 goods and property of all descriptions, which may be  
7 carried and transported to the railroad of said corpo-  
8 ration, on such other railroads as may hereafter be

9 authorized to connect therewith, at the same rates of  
 10 toll and freight, as may be prescribed by said corpora-  
 11 tion, as the general rates of freight and toll on said  
 12 railroad, received for freight and passengers, at any of  
 13 the deposits of said corporation.

SECT. 7. If said railroad in the course thereof, shall  
 2 cross any private way, the said corporation shall so  
 3 construct said railroad, as not to obstruct the safe and  
 4 convenient use of such private way; and if said road  
 5 shall in the course thereof, cross any canal, railroad or  
 6 highway, the said railroad shall be so constructed, as  
 7 not to obstruct the safe and convenient uses of such  
 8 canal, highway or such other railroad, and the said  
 9 corporation shall have power to raise or lower such  
 10 highway or private way, so that the said railroad if  
 11 necessary, may conveniently pass over or under the  
 12 same, and erect such gate or gates thereon, as may be  
 13 necessary for the safety of travellers on said railroad,  
 14 highway, or private way, and shall keep all bridges  
 15 and embankments necessary for the same in good  
 16 repair.

SECT. 8. 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 improved or enclosed

5 lands, or lands that may hereafter be improved or  
6 enclosed.

SECT. 9. The said corporation shall at all times,  
2 when the postmaster general shall require it, be holden  
3 to transport the mail of the United States from and to  
4 such place or places on said road as may be required  
5 for a reasonable compensation; and in case the corpo-  
6 ration and the postmaster general shall be unable to  
7 agree upon the compensation aforesaid, the legislature  
8 of the state shall determine the same; and the said  
9 corporation, after they shall commence the receiving  
10 of tolls, shall be bound at all times to have said rail-  
11 road in good repair, and a suitable number of efficient  
12 engines, carriages and vehicles for transportation of  
13 persons and articles, and be obliged to receive at all  
14 proper times and places and carry the same, when the  
15 appropriate tolls therefor shall be paid or tendered;  
16 and a lien is hereby created on all articles transported  
17 for said tolls, and said corporation fulfilling on its part  
18 all and singular the several obligations by this section  
19 imposed and enjoined upon it, shall not be held or  
20 bound to allow any engine, locomotive, cars, carriages  
21 or other vehicle, for the transportation of persons or  
22 merchandise, to pass over said railroad, other than its  
23 own, furnished and provided for that purpose, as herein

24 enjoined and required; *provided however*, that said  
25 corporation shall be under obligation to transport over  
26 said road the passenger and other cars of any other  
27 incorporated company, that may hereafter construct a  
28 railroad connecting with that hereby authorized, such  
29 other company being subject to all the provisions of the  
30 fifth and sixth sections of this act, as to rates of toll  
31 and all other particulars enumerated in said section.

SECT. 10. If any person shall wilfully and mali-  
2 ciously, or wantonly and contrary to law, obstruct the  
3 passage of any carriages on such 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 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 may  
15 direct, to the use of said corporation; and such offender  
16 or offenders shall be liable to indictment by the grand  
17 jury of the county within which trespass shall have

18 been committed, for any offence or offences contrary  
19 to the above provisions ; and upon conviction thereof  
20 before any court competent to try the same shall pay  
21 a fine not exceeding five hundred dollars to the use of  
22 the state, or may be imprisoned for a term not exceed-  
23 ing five years, at the discretion of the court before  
24 whom such conviction may be had.

SECT. 11. Said corporation shall keep in a book  
2 kept for that purpose, a regular account of all their  
3 disbursements, expenditures and receipts, and the  
4 books of said corporation shall at all times be open to  
5 the 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 cor-  
8 poration shall make an exhibit under oath, to the  
9 legislature, of the profits derived from the income of  
10 said road.

SECT. 12. All real estate purchased by said corpo-  
2 ration for the use of the same under the fourth section  
3 of this act, shall be taxable to said corporation by the  
4 several cities and towns in which said lands lie, in the  
5 same manner as lands owned by private persons, and  
6 shall in the valuation lists be estimated the same as  
7 lands owned by adjacent proprietors, of the same qual-  
8 ity in such city or town and not otherwise, and the

9 shares owned by the respective shareholders, shall be  
 10 deemed personal estate, and be taxable as such, to the  
 11 owners thereof, in the places where they reside and  
 12 have their homes.

SECT. 13. This corporation shall be at all times sub-  
 2 ject to such general laws in relation to railroads, as  
 3 have been or may be hereafter enacted by the legisla-  
 4 ture of this state.

SECT. 14. The annual meeting of the members of  
 2 said corporation shall be holden on the first Monday in  
 3 January, 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 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 author-  
 9 thorized to call special meetings of the stockholders  
 10 whenever they deem it expedient and proper, giving  
 11 such notice as the corporation by their by-laws shall  
 12 direct.

SECT. 15. The legislature shall at all times have  
 2 the 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

6 and prevent all abuses of the same, and to pass any  
7 laws imposing fines and penalties upon said corpora-  
8 tion which may be necessary more effectually to com-  
9 pel a compliance with the provisions, liabilities and  
10 duties hereinbefore set forth and enjoined, but not to  
11 impose any other or further duties, liabilities or obli-  
12 gations.

SECT. 16. 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 commissioners  
4 of the county of Penobscot on or before the first day  
5 of January, in the year of our Lord one thousand eight  
6 hundred and sixty-eight, or if the said corporation  
7 shall fail to complete said railroad on or before the  
8 first day of January, in the year of our Lord one thou-  
9 sand eight hundred and seventy-four, in either of the  
10 abovementioned cases this act shall be null and void.

SECT. 17. This act takes effect on its approval by  
2 the governor.



## STATE OF MAINE.

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IN SENATE, February 18, 1864.

Reported by Mr. MILLIKEN of Kennebec, from the Committee on Railroads, Ways and Bridges, and on motion of Mr. BRADBURY, laid on the table and 350 copies ordered to be printed for the use of the Legislature.

EZRA C. BRETT, *Secretary.*