

# MAINE STATE LEGISLATURE

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# DOCUMENTS

PUBLISHED BY ORDER OF

# THE LEGISLATURE

OF THE

STATE OF MAINE.

1867.

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AUGUSTA:  
STEVENS & SAYWARD, PRINTERS TO THE STATE.  
1867.

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# FORTY-SIXTH LEGISLATURE.

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HOUSE.

No. 21.

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## STATE OF MAINE.

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

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AN ACT to incorporate the Portland and Western Railroad Company.

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

SECTION I. John B. Brown, T. C. Hersey, Thomas  
2 H. Weston, Horatio N. Jose, Samuel E. Spring, Jo-  
3 siah H. Drummond, Henry A. Jones, George W.  
4 Woodman, George F. Shepley, Israel Washburne,  
5 junior, A. K. Shurtleff, Charles Q. Clapp, St. John  
6 Smith, John Lynch, Jonas H. Perley, Charles H.  
7 Haskell, M. G. Palmer, W. F. Milliken, M. N. Rich,  
8 Henry Fox, Richard D. Rice, R. B. Dunn, Samuel F.  
9 Hersey and George K. Jewett, their associates, suc-  
10 cessors and assigns, are hereby made and constituted

11 a body corporate and politic, by the name of the Port-  
12 land and Western Railroad Company, and by this  
13 name may sue and be sued, plead and be impleaded,  
14 and shall have and enjoy all proper remedies at law  
15 and in equity to secure and protect them in the exer-  
16 cise and use of the rights and privileges, and in the  
17 performance of the duties hereinafter granted and  
18 enjoined, and to prevent all invasions thereof, or inter-  
19 ruptions in exercising and performing the same; and  
20 the said corporation is hereby authorized and empow-  
21 ered to locate, construct and finally complete, alter  
22 and keep in repair, a railroad with one or more sets of  
23 rails or tracks, with all suitable bridges, tunnels, via-  
24 ducts, turnouts, culverts, drains, and all other neces-  
25 sary appendages, from some point in the city of Port-  
26 land, or from some point upon the line of any railroad,  
27 in the counties of Cumberland or York, extending  
28 northerly or westerly from said city, to such place  
29 upon the west line of the state as may be found expe-  
30 dient for the purpose of forming a connection with a  
31 railroad to be constructed from such place, westerly or  
32 northwesterly to the east line of the State of Vermont;  
33 and said corporation shall be and hereby are invested  
34 with all the powers, privileges and immunities which  
35 are or may be necessary to carry into effect the pur-  
36 poses and objects of this act as herein set forth; and

37 for this purpose said corporation shall have the right  
38 to purchase, or to take and hold so much of the land  
39 and the real estate of private persons and corporations  
40 as may be necessary for the location, construction and  
41 convenient operation of said railroad and branch ; and  
42 they shall also have the right to take, remove and use  
43 for the construction and repair of said railroad and  
44 appurtenances, any earth, gravel, stone, timber or  
45 other materials on or from the land so taken ; *provided*  
46 *however*, this said land so taken shall not exceed six  
47 rods in width, except where greater width is necessary  
48 for the purposes of excavation or embankment ; *and*  
49 *provided also*, that in all cases, said corporation shall  
50 pay for such lands, estate or materials so taken and  
51 used, such price as they and the owner or respective  
52 owners thereof may mutually agree upon ; and in case  
53 said parties shall not otherwise agree, the said corpo-  
54 ration shall pay such damages as shall be ascertained  
55 and determined by the county commissioners for the  
56 county where such land or other property may be sit-  
57 uated, in the same manner and under the same condi-  
58 tions and limitations as are by law provided in the  
59 case of damages by the laying out of highways ; and  
60 the land so taken by said corporation shall be held as  
61 lands taken and appropriated for highways. And no  
62 application to said commissioners to estimate said

63 damages shall be sustained unless made within three  
64 years from the time of taking such land or other prop-  
65 erty ; and in case such railroad shall pass through any  
66 woodland or forests, the said company shall have a  
67 right to fell or remove any trees standing therein  
68 within four rods of such road, which by their liability  
69 to be blown down, or from their natural falling might  
70 obstruct or impair said railroad, by paying a just com-  
71 pensation therefor, to be recovered in the same man-  
72 ner as provided for the recovery of other damages in  
73 this act.

SECT. 2. The capital stock of said corporation shall  
2 consist of not less than one thousand nor more than  
3 twenty thousand shares, and the immediate govern-  
4 ment and direction of the affairs of said corporation  
5 shall be vested in nine directors who shall be chosen  
6 by the members of said corporation, in the manner  
7 hereinafter provided, and shall hold their office until  
8 others shall have been duly elected and qualified to  
9 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 the faithful discharge of his  
14 duty, and a treasurer who shall be sworn, and also

15 give bonds to the corporation, with sureties to the  
16 satisfaction of the directors, in a sum not less than ten  
17 thousand dollars, for the faithful discharge of his trust ;  
18 and for the purpose of receiving subscriptions to the  
19 said stock, books shall be opened under the direction  
20 of the persons named in the first section of this act,  
21 at such times as they may determine in the city of  
22 Portland 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 newspaper printed in each of the counties of  
26 Cumberland and York ten days before the opening of  
27 such subscriptions ; and any seven of the persons  
28 named in the first section of this act are hereby au-  
29 thorized to call the first meeting of said corporation,  
30 for the choice of directors and organization, by giving  
31 notice in one or more newspapers published as before  
32 named, of the time and place and the purposes of such  
33 meeting, at least fourteen days before the time men-  
34 tioned 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  
4 under guardianship, the guardian of such infant, or  
5 person non compos mentis, and such feme covert, with

6 the guardian of her husband, shall have full power  
7 and authority to agree and settle with said corporation  
8 for 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 herein  
4 granted to the corporation for the purposes of locating,  
5 constructing and completing said railroad and branch,  
6 and for the transportation of persons, goods and prop-  
7 erty of all descriptions, and all such powers and  
8 authority for the management of the affairs of the  
9 corporation, as may be necessary and proper to carry  
10 into effect the objects of this grant, to purchase and  
11 hold land, materials, engines and cars, and other  
12 necessary things in the name of the corporation, for  
13 the use of said road, and for the transportation of per-  
14 sons, goods and property of all descriptions, to make  
15 such equal assessment from time to time on all the  
16 shares in said corporation as they may deem expedient  
17 and necessary in the execution and progress of the  
18 work, and direct the same to be paid to the treasurer  
19 of this corporation. And the treasurer shall give  
20 notice of all such assessments; and in case any sub-



21 scriber or stockholder shall neglect to pay any assess-  
22 ment on his share or shares for the space of thirty days  
23 after such notice is given or shall be prescribed by the  
24 by-laws of said corporation, the directors may order  
25 the treasurer to sell such share or shares at public auc-  
26 tion, after giving such notice as may be prescribed, as  
27 aforesaid, to the highest bidder, and the same shall be  
28 transferred to the purchaser, and such delinquent sub-  
29 scriber or stockholder shall be held accountable to the  
30 corporation for the balance, if his share or shares shall  
31 sell for less than the assessments due thereon, with the  
32 interest and costs of sale ; and shall be entitled to the  
33 overplus, if his share or shares sell for more than the  
34 assessments due, with interest and costs of sale ; *pro-*  
35 *vided 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 rates as may be agreed upon and established from  
6 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 rights of roads, 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. 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 be hereafter  
9 authorized to be connected therewith, at the same  
10 rates of toll and freight as may be prescribed by said  
11 said corporation, so that the rates of freight and toll  
12 of such passengers and goods and other property as  
13 may be received from such other railroads so connected  
14 with said road as aforesaid, shall not exceed the gen-  
15 eral rates of freight and toll on said railroad, received  
16 for freight and passengers at any of the deposits of  
17 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 rail-

5 road shall in the course thereof, cross any canal, rail-  
 6 road, or the highway, the said railroad shall be so  
 7 constructed as not to obstruct the safe and convenient  
 8 uses of such canal or highway ; and the said corpora-  
 9 tion shall have power to raise or lower such highway  
 10 or private way, so that the said railroad, if necessary,  
 11 may conveniently pass over or under the same, and  
 12 erect such gate or gates thereon as may be necessary  
 13 for the safety of travellers on said railroad, highway  
 14 or private way, and shall keep all bridges and em-  
 15 bankments necessary for the same in good 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 enclosed or improved  
 5 lands, or lands that may be hereafter improved.

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  
 4 to such place or places on said road as may be re-  
 5 quired, for a fair and reasonable compensation ; and  
 6 in case the corporation and the postmaster general  
 7 shall be unable to agree upon the compensation afore-  
 8 said, the legislature of the state shall determine the  
 9 same ; and the said corporation, after they shall com-

10 mence the receiving of tolls, shall be bound at all times  
11 to have said railroad in good repair, and a sufficient  
12 number of suitable engines, carriages and vehicles for  
13 transportation of persons and articles, and be obliged to  
14 receive at all proper times and places and carry the  
15 same, when the appropriate tolls therefor shall be paid  
16 or tendered ; and a lien is hereby created on all arti-  
17 cles transported for said tolls, and 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 merchandise, 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 shall  
26 be under obligation to transport over said road the  
27 passenger and other cars of any other incorporated  
28 company, that may hereafter construct a railroad con-  
29 necting with that hereby authorized, such other com-  
30 pany being subject to all the provisions of the fifth  
31 and sixth sections of this act, as to rates of toll and  
32 all other particulars enumerated in said sections.

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

SECT. 11. Said corporation shall keep in a book, for  
2 that purpose, a regular account of all their disburse-  
3 ments, expenditures and receipts, and the books of

4 said corporation shall at all times be open to the in-  
5 spection of the governor and council, and of any com-  
6 mittee duly authorized by the legislature, and at the  
7 expiration of every year the treasurer of said corpora-  
8 tion shall make an exhibit, under oath, to the legisla-  
9 ture, of the profits derived from the income of said  
10 railroad.

SECT. 12. All real estate purchased by said corpora-  
2 tion 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, towns and plantations in which said land  
5 lies, in the same manner as lands owned by private  
6 persons, and shall in the valuation list, be estimated  
7 the same as other adjacent lands of the same quality  
8 in such city, town or plantation, and not otherwise,  
9 and the shares owned by the respective stockholders,  
10 shall be deemed personal estate, and be taxable as  
11 such, to the owners thereof, in the places where they  
12 reside and have their homes. And whenever the net  
13 income of said corporation shall have amounted to ten  
14 per centum per annum upon the cost of the road and  
15 its appendages and incidental expenses, the directors  
16 shall make a special report of the fact to the legisla-  
17 ture, from and after which time, one moiety, or such  
18 other portion as the legislature may from time to time

19 determine, of the net income of said railroad, accruing  
20 thereafter over and above ten per centum per annum  
21 first to be paid to the stockholders, shall annually be  
22 paid over to the treasurer of said corporation, as a tax  
23 in the treasury of the state, for the use of the state ;  
24 and the state may have and maintain an action against  
25 said corporation therefor, to recover the same ; but no  
26 other tax than herein is provided shall ever be levied  
27 or assessed on said corporation or any of their privi-  
28 leges or franchises.

SECT. 13. 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 he  
8 holds shares ; and the directors are hereby authorized  
9 to call special meetings of the stockholders, whenever  
10 they shall deem it expedient and proper, giving such  
11 notice as the corporation by their by-laws shall direct.

SECT. 14. The legislature shall at all times have the  
2 right to enquire 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 a  
9 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.

SECT. 15. 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 sev-  
7 enty, or if the said corporation shall fail to complete  
8 said railroad to the west line of the state on or before  
9 the thirty-first day of December, in the year of our  
10 Lord one thousand eight hundred and seventy-three,  
11 in either of the above mentioned cases, this act shall  
12 be null and void.

SECT. 16. This act shall take effect from and after  
2 its approval by the governor.



STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
January 24, 1867. }

Reported by Mr. SHEPLEY, from the Committee on Railroads,  
Ways and Bridges.

FRANKLIN M. DREW, *Clerk.*