

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1867.

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1867.

FORTY-SIXTH LEGISLATURE.

HOUSE.

No. 78.

STATE OF MAINE.

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

AN ACT to incorporate the Winterport Railroad Company.

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

SECTION I. Lathley Rich, Theophilus Cushing,
2 George Dudley, Joseph Clark, James Haley, Elisha
3 Chick, T. H. Cushing, Job Lord, T. W. Vose, R. A.
4 Rich, John Atwood, D. M. Belcher, Amos Sproul, A.
5 L. Kelley, Charles Abbott, Samuel Dillaway, W. R.
6 Morrill, George S. Silsby, John Haley, Joseph W.
7 Eveleth, Thomas A. Snow, Benjamin B. Cushing, Ar-
8 thur C. Holmes, F. Atwood, N. H. Hubbard, Elbridge
9 Fernald, Enoch S. Grant, William Treat, their asso-
10 ciates, successors and assigns, are hereby made and
11 constituted a body corporate and politic by the name

12 of the Winterport 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 en-
18 joined, 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
23 of rails or tracks, with all suitable bridges, tunnels,
24 viaducts, turnouts, culverts, drains, and all other
25 necessary appendages, from some point near tide water
26 at Winterport or Frankfort, to the line of the Maine
27 Central Railroad Company, at some point on its line
28 in the town of Hermon, or east thereof, as shall be
29 found most convenient, for the purpose of connecting
30 the Maine Central Railroad by the most practicable
31 route with tide water in the town of Winterport or
32 Frankfort as aforesaid, with the right to construct the
33 necessary branch lines at Winterport or Frankfort for
34 the accommodation of business at tide water ; and to
35 transact business in connection with lines of steamers
36 and other vessels ; and said corporation shall be and
37 hereby are invested with all the powers, privileges and

38 immunities, which are or may be necessary to carry
39 into effect the purposes and objects of this act as here-
40 in set forth ; and for this purpose said corporation shall
41 have the right to purchase, or to take and hold so
42 much of the land and the real estate of private persons
43 and corporations as may be necessary for the location,
44 construction and convenient operation of said railroad
45 and branch ; and they shall also have the right to take,
46 remove and use for the construction and repair of said
47 railroad and appurtenances, any earth, gravel, stone,
48 timber or other materials, on or from the land so taken;
49 *provided however*, this said land so taken shall not ex-
50 ceed six rods in width, except where greater width
51 is necessary for the purposes of excavation or embank-
52 ment ; *and provided also*, that in all cases said corpo-
53 ration shall pay for such lands, estate or materials so
54 taken and used, such price as they and the owner or
55 respective owners thereof may mutually agree upon ;
56 and in case said parties shall not otherwise agree, the
57 said corporation shall pay such damages as shall be
58 ascertained and determined by the county commis-
59 sioners for the county where such land or other prop-
60 erty may be situated, in the same manner and under
61 the same conditions and limitations as are by law pro-
62 vided in the case of damages by the laying out of

63 highways ; and the land so taken by said corporation
64 shall be held as lands taken and appropriated for high-
65 ways. And no application to said commissioners to
66 estimate said damages shall be sustained unless made
67 within three years from the time of taking such land
68 or other property ; and in case such railroad shall pass
69 through any woodland or forests, the said company
70 shall have a right to fell or remove any trees standing
71 therein within four rods of such road, which by their
72 liability to be blown down or from their natural falling
73 might obstruct or impair said railroad, by paying a
74 just compensation therefor, to be recovered in the same
75 manner as provided for the recovery of other damages
76 in this act.

SECT. 2. The capital stock of said corporation shall
2 consist of not less than one thousand nor more than
3 three thousand shares, and the immediate government
4 and direction of the affairs of said corporation shall be
5 vested in seven directors who shall be chosen by the
6 members of said corporation, in the manner hereinafter
7 provided, and shall hold their office until others shall
8 have been duly elected and qualified to take their
9 place, a majority of whom shall form a quorum for the
10 transaction of business, and they shall elect one of
11 their number to be president of the corporation, and

12 shall have authority to choose a clerk who shall be
13 sworn to the faithful discharge of his duty, and a
14 treasurer who shall be sworn, and also give bonds to
15 the corporation, with sureties to the satisfaction of the
16 directors, in a sum not less than ten thousand dollars,
17 for the faithful discharge of his trust; and for the
18 purpose of receiving subscriptions to the said stock,
19 books shall be opened under the direction of the per-
20 sons named in the first section of this act, at such
21 times as they may determine in the city of Bangor
22 and elsewhere as they shall appoint, to remain open
23 for five successive days at least, of which time and
24 place of subscription public notice shall be given in
25 one newspaper printed in Bangor ten days before the
26 opening of such subscriptions; and any seven of the
27 persons named in the first section of this act are here-
28 by authorized to call the first meeting of said corpora-
29 tion, for the choice of directors and organization, by
30 giving notice in one or more newspapers published as
31 before named, of the time and place and the purposes
32 of such meeting, at least fourteen days before the time
33 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

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. 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 shall
12 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 corporation, so that the rates of freight and toll of
12 such passengers and goods and other property as may
13 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 to
4 such place or places on said road as may be required,
5 for a fair and reasonable compensation ; and in case
6 the corporation and the postmaster general shall be
7 unable to agree upon the compensation aforesaid, the

8 legislature of the state shall determine the same ; and
9 the said corporation, after they shall commence the
10 receiving of tolls, shall be bound at all times to have
11 said railroad in good repair, and a sufficient number of
12 suitable engines, carriages and vehicles for transporta-
13 tion of persons and articles, and be obliged to receive
14 at all proper times and places and carry the same,
15 when the appropriate tolls therefor shall be paid or
16 tendered ; and a lien is hereby created on all articles
17 transported for said tolls, and said corporation fulfilling
18 on its part all and singular the several obligations and
19 duties by this section imposed and enjoined upon it,
20 shall not be held or bound to allow any engine, loco-
21 motive, cars, carriages or other vehicle, for the trans-
22 portation of persons or merchandise, to pass over said
23 railroad, other than its own, furnished and provided
24 for that purpose, as herein enjoined and required ;
25 *provided however*, that said corporation shall be under
26 obligation to transport over said road the passenger
27 and other cars of any other incorporated company,
28 that may hereafter construct a railroad connecting
29 with that hereby authorized, such other company be-
30 ing subject to all the provisions of the fifth and sixth
31 sections of this act, as to rates of toll and all other
32 particulars enumerated in said sections.

SECT. 10. If any person shall wilfully and maliciously, or wantonly and contrary to law, obstruct the passage of any carriages on such railroad, or in any way spoil, injure or destroy said railroad, or any part thereof, or anything belonging thereto, or any materials or implements to be employed in the construction of, or for the use of said road, he, she or they, or any person or persons assisting, aiding or abetting such trespass, shall forfeit and pay to said corporation, for every such offence, treble such damages as shall be proved before the justice, court or jury before whom the trial shall be had, to be sued for before any justice or in any court proper to try the same, by the treasurer of the corporation, or other officer whom they may direct, to the use of said corporation; and such offender or offenders shall be liable to indictment by the grand jury of the county within which trespass shall have been committed, for any offence or offences contrary to the above provisions; and upon conviction thereof before any court competent to try the same, shall pay a fine not exceeding five hundred dollars to the use of the state, or may be imprisoned for a term not exceeding five years, at the discretion of the court before whom such conviction may be had.

SECT. 11. Said corporation shall keep in a book, for 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 on or before the thirty-first day of De-
9 cember, in the year of our Lord one thousand eight
10 hundred and seventy-three, in either of the above
11 mentioned cases, this act shall be null and void.

SECT. 16. This corporation is hereby authorized by
2 majority vote of its stockholders, at a legal meeting,
3 to lease, sell and transfer to the Maine Central Rail-
4 road Company, all rights, privileges and franchises,
5 and all property, real, personal and mixed, acquired
6 by virtue of this act; and the Maine Central Railroad
7 Company is hereby authorized to take by lease or pur-
8 chase the rights, franchises and property of said corpo-

9 ration, established by virtue of this act, and may
10 enter into contract for operating the line of said rail-
11 road company, and to subscribe to the stock of said
12 Winterport Railroad Company ; and the two companies
13 mentioned in this act may, by a majority vote of the
14 stockholders of the two corporations, enter into such
15 contract of union as may be promotive of their mutual
16 advantage. And this corporation is further hereby
17 authorized and empowered, by a majority vote of its
18 stockholders at a legal meeting, to lease, sell and
19 transfer to any railroad corporation in this state, all
20 the rights, privileges and franchises, and all property,
21 real and personal, acquired by virtue of this act.

SECT. 17. This act shall take effect from and after
2 its approval by the governor.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 15, 1867. }

Reported from the Committee on Railroads, Ways and Bridges,
by Mr. SPEAR, and ordered to be printed.

FRANKLIN M. DREW, *Clerk.*