
FORTY-SEVENTH LEGISLATURE.

HOUSE.

No. 91.

STATE OF MAINE.

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

AN ACT to incorporate the Penobscot Bay and River
Railroad Company.

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

SECTION 1. William McGilvey, Isaac Carver, David
2 Nickels, J. C. Nickels, Putnam Simonton, I. N. Har-
3 riman, Robert Porter, Robert Hichborn, Willson Hich-
4 born, J. W. Thompson, B. M. Roberts, A. D. Griffin,
5 N. G. Hichborn, Alexander Black, T. C. Woodman,
6 N. T. Hill, S. P. Hale, S. B. Swasey, N. P. Monroe,
7 Alfred Johnson, H. H. Johnson, J. W. Palmer, E. K.
8 Jewett, R. W. Hichborn, Axel Hayford, Hiram Chase,
9 Ebenezer Knowlton, Isaac Woodman, Amos Pitcher,
10 Vinal Hills, William Pitcher, Parker G. Eaton, Tim-

11 othy B. Grant, George A. Pierce, Upton Treat, Theop-
12 ilas Cushing, Alfred Black, Willard M. Griffin, B.
13 F. Rice, C. S. Fletcher, S. I. Roberts, D. Howe, J.
14 F. Hall, F. D. Harriman, E. K. Smart, Horatio Al-
15 den, Allen Fuller, P. F. Carlton, David Talbot, David
16 Knowlton, Thomas Frohock, William Duncan, S. G.
17 Norwood, J. B. Foster, B. S. Grant, Joseph Perry,
18 William D. Sewall, Oliver Moses, George F. Patten,
19 J. H. Kimball, N. A. Farwell, Francis Cobb, William
20 McLoon, John T. Berry, their associates, successors
21 and assigns, are hereby made and constituted a body
22 politic and corporate, by the name of the Penobscot
23 Bay and River Railroad Company, and by that name
24 may sue and be sued, plead and be impleaded, and
25 shall have and enjoy all proper remedies at law and in
26 equity to secure and protect them in the exercise and
27 use of the rights and privileges, and in the perform-
28 ance of the duties hereinafter granted and enjoined ;
29 and to prevent all invasions thereof or interruptions in
30 exercising and performing the same. And the said
31 corporation are hereby authorized and empowered to
32 locate, construct and finally complete, alter, keep in
33 repair, a railroad with one or more sets of rails or
34 tracks, with all suitable bridges, tunnels, viaducts,
35 turnouts, culverts, drains, and all other necessary ap-

36 pendages, from a point of connection with any railroad
37 within the city of Rockland, in the county of Knox,
38 and thence running northwardly through the towns of
39 Camden, Lincolnville, Northport, Belfast, Searsport,
40 Stockton, Prospect, Frankfort, Winterport and Hamp-
41 den, to a point of connection with any railroad in the
42 city of Bangor or any intermediate town; *provided*
43 *however*, that should the Winterport railroad, so called,
44 from Bangor to Winterport, be constructed or in pro-
45 cess of construction so as to accommodate the travel
46 and traffic, when the Penobscot Bay and River Road
47 herein mentioned shall be completed and in running
48 order from the city of Rockland to the town of Win-
49 terport, then the northerly terminus of said Penobscot
50 Bay and River Railroad shall be in the town of Win-
51 terport with power and authority to connect with said
52 Winterport railroad upon such terms as may be agreed
53 upon between said corporation, subject to the laws of
54 this State. And it is *further provided* that the Pe-
55 nobscot Bay and River Railroad shall not be located
56 so as to obstruct or interfere with the track of said
57 Winterport railroad corporation, except to cross the
58 track of said corporation, without the consent of the
59 Winterport railroad corporation in writing. And said
60 corporation shall be and hereby are invested with all

61 the powers, privileges and immunities, which are or
62 may be necessary to carry into effect the purposes and
63 objects of this act as herein set forth; and for this
64 purpose, said corporation shall have the right to pur-
65 chase or to take and hold so much of the land and
66 other real estate of private persons and corporations as
67 may be necessary for the location, construction and
68 convenient operation of said railroad; and they shall
69 also have the right to take, remove and use, for the
70 construction and repair of said railroad and appurte-
71 nances, any earth, gravel, stone, timber or other ma-
72 terials on or from the land so taken; *provided however,*
73 that said land so taken, shall not exceed six rods in
74 width, except where greater width is necessary for
75 the purposes of excavation and embankment; *and*
76 *provided also,* that in all cases said corporation shall
77 pay for such lands, estate or materials so taken and
78 used, such price as they and the owner or respective
79 owners thereof may mutually agree on; and in case
80 said parties shall not otherwise agree, then said corpo-
81 ration shall pay such damages as shall be ascertained
82 and determined by the county commissioners for the
83 county where such land or other property may be sit-
84 uated, in the same manner and under the same condi-
85 tions and limitations as are by law provided in the

86 case of damages by the laying out of highways. And
87 the land so taken by said corporation shall be held as
88 lands taken and appropriated for highways. And no
89 application to said commissioners to estimate said
90 damages shall be sustained, unless made within three
91 years from the time of taking such land or other prop-
92 erty; and in case such railroad shall pass through
93 any woodlands or forests, the said company shall have
94 a right to fell or remove any trees standing therein,
95 within four rods of such road which by their liability
96 to be blown down or from their natural falling, might
97 obstruct or impair said railroad, by paying a just com-
98 pensation therefor, to be recovered in the same man-
99 ner as provided for the recovery of other damages in
100 this act.

SECT. 2. The capital stock of said corporation shall
2 consist of not less than one thousand nor more than six
3 thousand shares, and the intermediate government and
4 direction of the affairs of said corporation shall be
5 vested in nine, eleven or thirteen directors, who shall
6 be 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 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 sat-
16 isfaction 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 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 towns of Cam-
22 den, Belfast, Searsport, Stockton and Winterport,
23 and elsewhere as they shall appoint, to remain open for
24 five successive days at least, of which time and place
25 of subscription public notice shall be given in one or
26 more of the newspapers printed in the county of Waldo,
27 ten days before the opening of such subscription. And
28 any seven of the persons named in the first section of
29 this act are hereby authorized to call the first meeting
30 of said corporation for the choice of directors and or-
31 ganization, by giving notice in one or more newspapers
32 published as above named, of the time and place and
33 the purposes of such meeting at least fourteen days
34 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 herein
4 granted to the corporation for the purpose of locating,
5 constructing and completing said railroad, and for the
6 transportation of persons, goods and property of all
7 descriptions, and all such powers and authority for the
8 management of the affairs of the corporation as may
9 be necessary and proper to carry into effect the objects
10 of this grant, to purchase and hold land, materials,
11 engines and cars, and other necessary things, in the
12 name of the corporation for the use of said road, and
13 for the transportation of persons, goods and property
14 of all descriptions; to make such equal assessment
15 from time to time on all the shares in said corporation
16 as they may deem expedient and necessary in the ex-
17 ecution and progress of the work, and direct the same

18 to be paid to the treasurer of the corporation, and the
19 treasurer shall give notice of all such assessments; and
20 in case any subscriber or stockholder shall neglect to
21 pay any assessment on his share or shares for the space
22 of thirty days after such notice is given as shall be
23 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,
28 and such delinquent subscriber or stockholder shall be
29 held accountable to the corporation for the balance if
30 his share or shares shall sell for less than the assess-
31 ments due thereon, with the interest and costs of sale,
32 and shall be entitled to the overplus, if his share or
33 shares sell for more than the assessments due, with
34 interest and costs of sale; *provided however*, that no
35 assessment shall be laid upon any shares in said cor-
36 poration of a greater amount in the whole than one
37 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 weights of loads, 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. Other railroad companies now incorpo-
2 rated, or hereafter to be incorporated in this state,
3 shall have the right to connect their railroads with
4 the railroad of the Penobscot River and Bay Railroad
5 Company, in the city of Bangor or in any city or town
6 along the line of its road; and no discrimination in
7 the rates of freight or passengers shall be made by
8 said company, nor by any party who may operate its
9 line of railroad or any part thereof, between railroads
10 having the right to connect with its railroad as afore-
11 said; but all passengers and all freights coming from
12 or going to any other road having such right to con-
13 nect, shall be transported promptly, and on terms
14 alike favorable, by said company over its own road,
15 or by any party operating the same and on terms as
16 favorable as the like service is or shall be performed
17 for transportation commencing and terminating on the
18 line of railroad of said company.

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 in the course thereof cross any canal, railroad or
6 other highway, the said railroad shall be so constructed
7 as not to obstruct the safe and convenient use of such
8 canal or highway ; and the said corporation shall have
9 power to raise or lower such highway or private way,
10 so that the said railroad if necessary may conveniently
11 pass over or under the same, and erect such gate or
12 gates thereon as may be necessary for the safety of
13 travellers on said railroad, highway or private way,
14 and shall keep all bridges and embankments necessary
15 for the same in good repair. Said corporation shall
16 have the right to cross any tide water or navigable
17 river with said railroad, should they come in its course,
18 by building and maintaining suitable draws for the
19 accommodation of navigation.

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 when 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 said corporation after they shall commence the receiv-
10 ing of tolls, shall be bound at all times to have said
11 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 convey 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 ful-
18 filling on its part, all and singular, the several obliga-
19 tions and duties by this section imposed and enjoined,
20 it shall not be held bound to allow any engine, loco-
21 motive, cars, carriages or other vehicles for the trans-
22 portation of persons or merchandise to pass over said
23 railroad, other than its own furnished and provided for
24 that purpose as herein enjoined and required ; *provided*
25 *however*, that said corporation shall be under obliga-
26 tions to transport over said road the passenger and

27 other cars of any other incorporated company that may
28 hereafter construct a railroad connecting with that
29 hereby authorized, such other company being subject
30 to all the provisions of the fifth and sixth sections of
31 this act as to rates of toll and all other particulars
32 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 any such railroad, or in
4 any way spoil, injure or destroy said railroad, or any
5 part thereof, or anything belonging thereto, or any
6 materials or implements to be employed in the con-
7 struction of or for the use of said road, he, she or they,
8 or any person or persons assisting, aiding or abetting
9 such trespass, shall forfeit and pay to said corporation
10 for 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
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 opened to the
5 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 leg-
9 islature of the profits derived from the income of said
10 railroad.

SECT. 12. All real estate purchased by said corpo-
2 ration for the use of the same, under the fourth sec-
3 tion of this act shall be taxable to said corporation by
4 the several cities, towns and plantations in which said
5 land lies, in the same manner as lands owned by pri-
6 vate persons, and shall in the valuation list be esti-
7 mated the same as other adjacent lands of the same
8 quality in such city, town or plantation, and not
9 otherwise; and the shares owned by the respective
10 stockholders shall be deemed personal estate, and be

11 taxable as such to the owners thereof in the places
12 they reside and have their homes. And whenever the
13 net income of said corporation shall have amounted to
14 ten per cent. 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.

SECT. 13. The annual meeting of said corporation
2 shall be holden on the first Monday in January or such
3 other day as shall be determined by the by-laws at
4 such time and place as the directors for the time being
5 shall appoint, at which meeting the directors shall be
6 chosen by ballot, each proprietor by himself or proxy
7 being entitled to as many votes as he holds shares,
8 and the directors are hereby authorized to call special
9 meetings of the stockholders whenever they shall deem
10 it expedient and proper, giving such notice as the cor-
11 poration by their by-laws shall direct.

SECT. 14. 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 counties through which the same shall pass on
5 or before the first day of January in the year of our
6 Lord one thousand eight hundred and seventy-one, or
7 if the said corporation shall fail to complete said rail-

8 road on or before the first day of January in the year
9 of our Lord one thousand eight hundred and seventy-
10 four, in either of the above mentioned cases this act
11 shall be null and void.

SECT. 15. Said corporation is hereby authorized to
2 issue non-preferred and preferred stock, upon such
3 terms and conditions, and to such persons and corpora-
4 tions, and with such limitations and restrictions as
5 may be deemed most for the interests of the sub-
6 scribers, the success of the corporation, and the com-
7 pletion of the road; and cities and towns interested
8 in the construction of said road, or to be benefitted
9 thereby, may subscribe, at par value, for any amount
10 of either class of said stock, by a vote of two-thirds of
11 the legal voters of any such city or town, present at
12 any meeting legally called therefor, not to exceed ten
13 per cent. of the amount of the valuation of such city
14 or town; and such vote shall be obligatory on said
15 city or town for the payment of the amount so sub-
16 scribed; and said cities and towns may issue their
17 bonds for such stock, on such time as may be agreed
18 upon, with interest payable semi-annually, at a rate
19 not exceeding six per cent. and for a period not ex-
20 ceeding thirty years, and all stock so subscribed for
21 by said towns or cities shall be represented in said
22 corporation by the municipal authorities thereof.

SECT. 16. 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 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 ;
12 *provided also*, that should the Winterport railroad be
13 constructed of such a gauge as to prevent the passage
14 of the locomotives and cars of said Penobscot Bay and
15 River Railroad when it shall be completed and in run-
16 ning order to the town of Winterport, from the city
17 of Rockland, then the said Winterport railroad shall
18 be and hereby is authorized and empowered, and
19 shall be held to lay a third rail to enable the locomo-
20 motives and cars of said Penobscot Bay and River
21 Railroad to pass over the said Winterport railroad,
22 upon such terms and in such manner as may be agreed
23 upon by a majority vote of the stockholders at legal
24 meetings of said corporations. And should the said
25 Winterport railroad corporation unreasonably neglect

26 or refuse to provide for the passage over its track of
27 the locomotives and cars of said Penobscot Bay and
28 River Railroad, or should the two corporations fail to
29 agree upon the terms and manner of connection as
30 herein provided, then the railroad commissioners of the
31 state shall decide upon and settle the questions at issue
32 between the two corporations, unless the said corpora-
33 tions shall previously elect and agree to refer said
34 questions to disinterested parties for settlement.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 14, 1868. }

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

S. J. CHADBOURNE, *Clerk.*