
FORTY-SEVENTH LEGISLATURE.

HOUSE.

No. 116.

STATE OF MAINE.

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

AN ACT to incorporate the Portland and Rutland Railroad Company.

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

SECTION 1. John B. Brown, John B. Carroll, A. W.
2 H. Clapp, William Deering, Charles Fobes, N. A.
3 Foster, Samuel J. Anderson, John M. Adams, T. C.
4 Hersey, Allen Haines, John Lynch, H. J. Libbey, Is-
5 rael Washburn junior, Horatio A. Jose, Jacob McLel-
6 lan, N. J. Miller, F. G. Messer, Jonas H. Perley,
7 John A. Poor, R. M. Richardson, Nehemiah Rice,
8 Augustus E. Stevens, A. K. Shurtleff, Rufus E. Wood,
9 George W. Woodman, N. I. Woodbury, Ammi Boyn-
10 ton, John Jameson, Caleb R. Ayer, Ezra Towle, Elias

11 H. Newbegin, Tobias Lord, Frederick Robie, Enoch
12 Knight, Freeman McKenney, James L. Farrar, Wil-
13 liam H. Fessenden, Wm. McArthur, Freeman Hatch,
14 Ebenezer Blazo, John O'Brien, their associates, suc-
15 cessors and assigns, are hereby made and constituted
16 a body corporate and politic, by the name of the Port-
17 land and Rutland Railroad Company, and by this
18 name may sue and be sued, plead and be impleaded,
19 and shall have and enjoy all proper remedies at law
20 and in equity to secure and protect them in the exer-
21 cise and use of the rights and privileges, and in the
22 performance of the duties hereinafter granted and en-
23 joined, and to prevent all invasions thereof, or inter-
24 ruptions in exercising and performing the same ; and
25 the said corporation is hereby authorized and empow-
26 ered to locate, construct and finally complete, alter
27 and keep in repair, a railroad with one or more sets of
28 rails or tracks, with all suitable bridges, tunnels, via-
29 ducts, turnouts, culverts, drains, and all other neces-
30 sary appendages, from some point upon the line of any
31 existing railroad in the counties of York, Oxford and
32 Cumberland, or upon any line that may be hereafter
33 constructed, under any existing charter, within the
34 counties of York, Oxford and Cumberland, at some
35 point west of the Saco river or north of the town of
36 Standish, thence extending northerly or westerly to

37 the western boundary line of the state in the valley of
38 the Great Ossipee river, to such place upon the west
39 line of the state as may be found expedient for the
40 purpose of forming a connection with a railroad to be
41 constructed from such place westerly or northwesterly
42 to the east line of the State of Vermont ; and said
43 corporation shall be and hereby are invested with all
44 the powers, privileges and immunities which are or
45 may be necessary to carry into effect the purposes and
46 objects of this act as herein set forth, with the right to
47 extend its line through the States of New Hampshire
48 and Vermont, in case authority therefor is granted by
49 said states or either of them, with the further right to
50 unite with the line of any other railroad company in
51 either of said states, and to issue its bonds to aid the
52 construction of any other connected line in either of
53 said states, or lease or purchase any connected line in
54 this state or either of said states, so as best to form a
55 connected line of railroad from the city of Portland,
56 Maine, to the town of Rutland, Vermont ; and for this
57 purpose said corporation shall have the right to pur-
58 chase, or to take and hold so much of the land and the
59 real estate of private persons and corporations as may
60 be necessary for the location, construction and conven-
61 ient operation of said railroad and branch ; and they
62 shall also have the right to take, remove and use for

63 the construction and repair of said railroad and appur-
64 tenances, any earth, gravel, stone, timber or other
65 materials on or from the land so taken ; *provided*
66 *however*, this said land so taken shall not exceed six
67 rods in width, except where greater width is necessary
68 for the purposes of excavation or embankment ; *and*
69 *provided also*, that in all cases, said corporation shall
70 pay for such lands, estate or materials so taken and
71 used, such price as they and the owner or respective
72 owners thereof may mutually agree upon ; and in case
73 said parties shall not otherwise agree, the said corpo-
74 ration shall pay such damages as shall be ascertained
75 and determined by the county oommissioners for the
76 county where such land or other property may be sit-
77 uated, in the same manner and under the same condi-
78 tions and limitations as are by law provided in the
79 case of damages by the laying out of highways ; and
80 the land so taken by said corporation shall be held as
81 lands taken and appropriated for highways. And no
82 application to said commissioners to estimate said
83 damages shall be sustained unless made within three
84 years from the time of taking such land or other prop-
85 erty ; and in case such railroad shall pass through any
86 woodland or forests, the said company shall have a
87 right to fell or remove any trees standing therein
88 within four rods of such road, which by their liability

89 to be blown down or from their natural falling might
 90 obstruct or impair said railroad, by paying a just com-
 91 pensation therefor, to be recovered in the same manner
 92 as provided for the recovery of other damages in this,
 93 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 corporations 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 corporation, so that the rates of freight and toll of such
 12 passengers and goods and other property as may be
 13 received from such other railroads so connected with
 14 said road as aforesaid, shall not exceed the general
 15 rates of freight and toll on said railroad, received for
 16 freight and passengers at any of the deposits of said
 17 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. Other railroad companies now incorpora-
2 ted or hereafter to be incorporated in this state shall
3 have the right to connect their railroads with the rail-
4 road of the Portland and Rutland Railroad Company
5 in any town along the line of its road ; and no dis-
6 crimination in the rates of freight or passengers shall
7 be made by said company nor by any party who may
8 operate its line of railway or any part thereof, between
9 railroads having the right to contract with its railroad
10 as aforesaid ; but all passengers and all freight coming
11 from or going to any other road having such right to con-
12 nect shall be transported promptly and on terms alike
13 favorable by said company over its own road, or by
14 any party operating the same, and on terms as favor-
15 able as the like service is or shall be performed for

16 transportation commencing and terminating on the line
17 of railway of said company.

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

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 22, 1868. }

Laid on the table by Mr. FOSTER of Portland, the rules being
suspended, referred to the Committee on Railroads, Ways and
Bridges, and ordered to be printed.

S. J. CHADBOURNE, *Clerk.*