

MAINE STATE LEGISLATURE

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FORTY-NINTH LEGISLATURE.

HOUSE.

No. 13.

STATE OF MAINE.

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

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

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

SECTION 1. Seth Tisdale, A. F. Drinkwater, N. K.
2 Sawyer, Monroe Young, D. H. Eppes, John D. Hop-
3 kins, H. M. Hall, Barlow Hall, junior, Sewall B.
4 Swazey, Ambrose White, J. L. Burk, N. T. Hill,
5 Alonzo Colby, S. P. Hall, T. C. Woodman, Edward
6 Swazey, George L. Bradley, James Emery, A. P.
7 Emerson, John Burk, Isaac Patridge, John A. Burk,
8 Charles Newcomb, Micajah Couvier, Solomon Phipps,
9 M. F. Eldridge, W. E. Covell, Thomas B. George,
10 Daniel Sargent, 2d, R. K. Cushing, George O. Good-
11 win, A. S. Meservey, John Tibbetts, A. C. Wilson,

12 Jesse Hinks, D. B. Doane, J. S. Paine, Calvin Kent,
13 Alpheus Robinson, A. T. Parker, J. W. Palmer, Eben
14 Blunt, John L. Cutler, Davis R. Stockwell, E. H.
15 Rollins, J. O. B. Darling, A. D. Manson, Samuel
16 Wasson, Philip J. Milliken, Samuel Merrill, Elisha
17 Bowden, Isaac B. Goodwin, Joseph T. Hinckley, their
18 associates, successors and assigns, are hereby made
19 and constituted a body politic and corporate by the
20 name of the Penobscot and Union River Railroad
21 Company, and by this name may sue and be sued,
22 plead and be impleaded, and shall have and enjoy
23 all proper remedies at law and in equity to secure and
24 protect them in the exercise and use of the rights and
25 privileges, and in the performance of the duties here-
26 inafter granted and enjoined, and to prevent all in-
27 vasions thereof, or interruptions in exercising and
28 performing the same; and the said corporation is
29 hereby authorized and empowered to locate, construct
30 and finally complete, alter and keep in repair a rail-
31 road, with one or more sets of rails or tracks, with all
32 suitable bridges, tunnels, viaducts, turnouts, culverts,
33 drains and all other necessary appendages, from some
34 point in the city of Bangor, so as to connect with any
35 railroad in said city, and thence to some point above
36 the Bangor and Brewer toll bridge, crossing the
37 Penobscot river to Brewer, through Orrington to

38 Bucksport village, and thence by way of Orland,
39 Penobscot and Surry, to some point in Ellsworth, in
40 the county of Hancock ; and for this purpose said
41 corporation shall have the right to purchase, or to take
42 and hold so much of the land and the real estate of
43 private persons and corporations as may be necessary
44 for the location, construction and convenient operation
45 of said railroad and necessary branch ; and they shall
46 also have the right to take, remove and use for the
47 construction and repair of said railroad and appur-
48 tenances, any earth, gravel, stone, timber or other
49 materials on or from the land so taken ; *provided how-*
50 *ever*, this said land so taken shall not exceed six rods
51 in width, except where greater width is necessary for
52 the purposes of excavation or embankment ; *and pro-*
53 *vided also*, that in all cases, said corporation shall pay
54 for such lands, estate or materials so taken and used,
55 such price as they and the owner or respective owners
56 thereof may mutually agree upon ; and in case said
57 parties shall not otherwise agree, the said corporation
58 shall pay such damages as shall be ascertained and
59 determined by the county commissioners for the county
60 where such land or other property may be situated, in
61 the same manner and under the same conditions and
62 limitations as are by law provided in the case of
63 damages by the laying out of highways ; and the land

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

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

14 discharge of his duty, and a treasurer, who shall be
15 be sworn, and also give bonds to the corporation, with
16 sureties to the satisfaction of the directors, in a sum
17 not less than ten thousand dollars, for the faithful dis-
18 charge of his trust ; and for the purpose of receiving
19 subscriptions to the said stock, books shall be opened,
20 under the direction of the persons named in the first
21 section of this act, at such times as they may deter-
22 mine, in the cities of Bangor and Ellsworth, and in
23 the town of Bucksport, and elsewhere as they shall
24 appoint, to remain open for such a time as they shall
25 direct, of which time and place of subscription public
26 notice shall be given in a newspaper printed in the
27 counties of Penobscot and Hancock ten days before
28 the opening of such subscriptions ; and any seven of
29 the persons named in the first section of this act are
30 hereby authorized to call the first meeting of said cor-
31 poration, for the choice of directors and organization,
32 by giving notice in the newspapers published as before
33 named, of the time and place and the purposes of such
34 meeting, at least fourteen days before the time men-
35 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 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 reasons 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 loca-
5 ting, constructing and completing said railroad and
6 branches necessary, and for the transportation of per-
7 sons, goods and property of all descriptions, and all
8 such powers and authority for the management of the
9 affairs of the corporation, as may be necessary and
10 proper to carry into effect the objects of this grant, to
11 purchase and hold land, materials, engines and cars,
12 and other necessary things in the name of the corpora-
13 tion, for the use of said road, and for the transportation
14 of persons, goods and property of all descriptions, to
15 make 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 no-
20 tice of all such assessments; and in case any subscriber

21 or stockholder shall neglect to pay any assessment on
22 his share or shares for the space of thirty days after
23 such notice is given or shall be prescribed by the by-
24 laws of said corporation, the directors may order the
25 treasurer to sell such share or shares at public auction,
26 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 passen-
3 gers 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 matters and things in relation

10 to said road shall be in conformity with such rules,
11 regulations and provisions, as the directors shall 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 railroad, 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,
2 shall cross any private way, the said corporation shall
3 so construct said railroad as not to obstruct the safe
4 and convenient use of such private way; and if said
5 railroad shall, in the course thereof, cross any canal,
6 railroad, 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 embank-
15 ments 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 fulfill-
18 ing on its part all and singular the several obligations
19 and duties by this section imposed and enjoined upon
20 it, shall not be held or bound to allow any engine,
21 locomotive, cars, carriages or other vehicle, for the
22 transportation of persons or merchandise, to pass over
23 said railroad, other than its own, furnished and provid-
24 ed 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 that
28 may 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 malic-
2 iously, 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 jus-
13 tice, or in any court proper to try the same, by the
14 treasurer 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 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, 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 in
8 such city, town or plantation, and not otherwise; and
9 the shares owned by the respective stockholders, shall
10 be deemed personal estate, and be taxable as such, to
11 the owners thereof, in the places where they reside
12 and have their homes. And whenever the net income
13 of said corporation shall have amounted to ten per
14 centum per annum upon the cost of the road and its
15 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
3 in January, or such other day as shall be determined
4 by the by-laws, at such time and place as the direct-
5 ors for the time being shall appoint, at which meeting
6 the directors shall be chosen by ballot, each proprietor
7 by himself or proxy being entitled to as many votes as
8 he holds shares; and the directors are hereby author-
9 ized to call special meetings of the stockholders, when-
10 ever they shall deem it expedient and proper, giving
11 such notice as the corporation by their by-laws shall
12 direct.

SECT. 14. 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. 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 county through which the same shall pass,
5 on or before the first day of March, in the year of our
6 Lord one thousand eight hundred and seventy-three, or
7 if the said corporation shall fail to complete at least
8 eighteen miles of said railroad on or before the first
9 day of March, in the year of our Lord one thousand
10 eight hundred and seventy-six, in either of the above
11 mentioned cases, this act shall be null and void.

SECT. 16. The corporation is hereby invested with
2 power to make connections with any other road or
3 roads, and on such terms as the members may deem
4 expedient and proper; and it is hereby authorized to
5 lease the road, either before or after it shall have been
6 completed, on such terms and for such time as the
7 members at a meeting regularly called for that purpose
8 shall determine.

SECT. 17. Other railroad companies now incorpo-
2 rated or hereafter to be incorporated in this state, shall
3 have the right to connect their railroads with the rail-
4 road of the Penobscot and Union River Railroad Com-
5 pany, in any town along the line of its road; and no

6 discrimination 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
12 connect, shall be transported promptly and on terms
13 alike favorable by said company over its own road, or
14 by any party operating the same, and on terms as
15 favorable as the like service is or shall be performed
16 for transportation commencing and terminating on the
17 line of railway of said company.

SECT. 18. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 26, 1870. }

Presented by Mr. HINKS of Bucksport, and ordered to be printed and referred to the Committee on Railroads, Ways and Bridges.

S. J. CHADBOURNE, *Clerk.*