

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# FIFTY-FIRST LEGISLATURE.

---

---

SENATE.

No. 43.

---

---

## STATE OF MAINE.

---

The Committee on Railroads, Ways and Bridges, to which was referred the petition of John Hayden and others, praying for a charter for a railroad from Bath to Portland, have had the same under consideration, and ask leave to report that the petitioners have leave to withdraw.

Per order.

S. T. HINKS, *Chairman.*

---

---

## MINORITY REPORT.

---

The Committee on Railroads, Ways and Bridges, to which was referred the petition of John Hayden and others, praying that a charter may be granted to them to build a railroad from Bath to Portland, have had the same under consideration, and the undersigned, minority of said Committee, dissenting from the majority, believe that the prayer of said petitioners ought to be granted. It appeared in evidence before the Committee that the petitioners, to promote their local interests, increase the business of the Knox and Lincoln Railroad, in which they are interested, and assure the building of the Penobscot Bay and River Railroad, are determined to build the proposed line from Bath to Portland if a charter is granted, and thus secure a through line along the sea shore from Portland to Bangor. As such a line of railroad along the sea shore, on Penobscot bay and river, is greatly desired by the people of the towns through which it would pass, and as the proposed

road from Bath to Portland would render such a line independent of a competing line, it is believed to be sound policy and for the interests of the State to grant the charter prayed for; wherefore the minority of your Committee ask leave to report a bill, which is herewith submitted.

Per order.

J. DINGLEY, JR.  
RUFUS PRINCE.

# STATE OF MAINE.

---

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

---

---

AN ACT to incorporate the Portland, Bath and Sea Shore  
Railroad Company.

---

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

SECTION 1. John Hayden, William V. Moses, George  
2 A. Preble, Joseph Clark, John G. Smith, L. W.  
3 Houghton, A. D. Fisher, S. A. Houghton, Clark  
4 Coombs, George F. Manson, C. D. Bailey, N. Grant,  
5 Franklin Reed, Edward P. Furlong, J. D. Robinson,  
6 Charles W. Larabee, I. Goodwin, James P. Hitchcock,  
7 B. C. Bailey, A. G. Page, A. W. H. Clapp, W. F.  
8 Wentworth, F. L. Hayes, Arthur Lincoln, Robert R.  
9 Bishop, Charles Levi Woodbury, William E. Coffin,  
10 John E. Lyon, John H. Reed, Arthur Williams,  
11 Charles P. Clark, Henry L. Hallett, J. Avery Rich-  
12 ards, E. W. Morton, Gilbert Atwood, John D. San-  
13 born, Timothy H. Hubbard, N. A. Farwell, Edwin  
14 Flye, E. K. O'Brien, their associates, successors and

15 assigns, are hereby made and constituted a body politic  
16 and corporate by the name of the Portland, Bath and  
17 Sea Shore Railroad Company, and by that name may  
18 sue and be sued, plead and be impleaded, and shall  
19 be entitled to all proper remedies at law and in equity  
20 to secure and protect them in the exercise and use of  
21 the rights and privileges conferred by this act and in  
22 the performance of the duties hereinafter imposed and  
23 enjoined, and to prevent all invasion thereof, or inter-  
24 ruption in exercising and performing the same, and  
25 shall be subject to all duties and liabilities imposed  
26 upon similar corporations by the laws of the state.

SECT. 2. The said corporation is hereby fully em-  
2 powered to survey, locate, construct, complete, alter,  
3 equip, and keep in repair, a railroad with one or more  
4 tracks, and all necessary buildings, tunnels, viaducts,  
5 turnouts, side tracks, culverts, bridges, drains, and all  
6 other needful appendages and appurtenances, from some  
7 point in or near the city of Portland and connecting  
8 with the Portland, Saco and Portsmouth and Boston  
9 and Maine railroads, thence through the towns of Cape  
10 Elizabeth, if necessary, Deering, and Westbrook if  
11 necessary, and connect in said Westbrook with the  
12 Portland and Rochester railroad ; thence in an easterly  
13 direction through the towns of Falmouth, Cumberland,  
14 Yarmouth or North Yarmouth if necessary, Freeport,

15 Brunswick, West Bath, to the city of Bath, and there  
 16 connect with the Knox and Lincoln railroad.

SECT. 3. Said corporation is hereby invested with  
 2 all the powers, privileges and immunities which may  
 3 be necessary to carry into effect the object and pur-  
 4 poses of this act, with the right if necessary, to  
 5 bridge for the use of said road, any tide waters,  
 6 navigable rivers or streams; *provided* said bridges  
 7 shall be so constructed as not to prevent navigating  
 8 said waters; and to this end it shall have the right  
 9 to take or to purchase and hold or assign and con-  
 10 vey the same, so much of the land and other real  
 11 estate of private persons or corporations as may be  
 12 found necessary or convenient for the location, con-  
 13 struction and convenient operation of said railroad;  
 14 and shall also have the right to take, remove and use,  
 15 for the construction and also for the repair of said  
 16 railroad and its appurtenances, any earth, gravel, stone,  
 17 timber, or other materials on or from the land so taken,  
 18 *provided, however,* the land so taken shall not exceed  
 19 six rods in width except where greater width is neces-  
 20 sary for the purpose of excavation or embankment;  
 21 *and provided, also,* in all cases said corporation shall  
 22 pay for such lands, estate or materials, such price as  
 23 they and the owner or owners thereof may mutually  
 24 agree upon; and in case said parties shall not agree

25 as to the price to be paid, then the said corporation  
26 shall pay, in any given case, such damages as shall be  
27 ascertained and determined by the county commission-  
28 ers of the several counties in which such lands or  
29 estates or materials may be situated, in the same man-  
30 ner and under the same conditions as are by law pro-  
31 vided in the case of laying out highways. The lands  
32 so taken by said corporation shall be held by it in like  
33 manner as lands taken and appropriated for highways.

SECT. 4. No application to said county commission-  
2 ers to estimate damages, as provided in the preceding  
3 section, shall be sustained unless made within three  
4 years from the time of taking such land and other  
5 property; and in the event that said railroad shall  
6 pass through any woodland or forest, said corporation  
7 shall have the right to remove or fell any tree or trees  
8 standing on such woodland or in such forest within  
9 four rods of such railroad which may be liable to be  
10 blown down upon its track and thereby obstruct or  
11 impair the same, by paying therefor a just and rea-  
12 sonable compensation in each case, to be determined  
13 and recovered, in the event of disagreement between  
14 the parties, in the same manner provided in this act  
15 for the determination and recovery of other damages.

SECT. 5. The capital stock of said corporation shall  
2 consist of not less than fifteen thousand shares of one

3 hundred dollars each, par value, but the number of  
 4 such shares may be from time to time increased, at the  
 5 discretion of the stockholders, to an amount not exceed-  
 6 ing twenty thousand shares. The entire government and  
 7 direction of the affairs of said corporation shall be  
 8 vested in a board of directors, to consist of not more  
 9 than nine members, and not less than seven, which  
 10 members shall be stockholders in said corporation and  
 11 shall be chosen or appointed in the manner hereinafter  
 12 provided, and shall hold their offices respectively until  
 13 others shall be appointed to take their places. A ma-  
 14 jority of said board shall be a quorum for the transac-  
 15 tion of business, and they shall elect one of their num-  
 16 ber to be president of the board who shall also be  
 17 president of the corporation, and they shall also choose  
 18 a clerk and treasurer, which latter officer shall be re-  
 19 quired to give bond to the corporation, in such sum as  
 20 the directors may determine, for the faithful discharge  
 21 of his trust.

SECT. 6. The directors for the time being are hereby  
 2 duly authorized and empowered, by themselves or their  
 3 agents, to exercise all the powers herein granted to  
 4 the corporation, relating to the location, construction,  
 5 completion and equipping of said railroad, and to the  
 6 transportation of persons, goods and property on and  
 7 over the same; and also all such power and authority



8 for the management of the affairs of the corporation as  
9 may be necessary and proper to carry into effect the  
10 objects of this charter. They may, in the name of the  
11 corporation and for its use, purchase, take, and hold,  
12 and convey all such lands, materials, engines, cars,  
13 property and other things, as they may find necessary,  
14 convenient, or useful in the construction, completion  
15 and equipment of said railroad, or which may aid in  
16 obtaining funds and means for the construction, com-  
17 pletion and equipment thereof, and may apply all pro-  
18 ceeds arising therefrom to the construction, completion  
19 and equipment of said railroad : They may make, from  
20 time to time, such equal assessments upon all the  
21 shares of stock in said corporation as they may deem  
22 expedient and necessary as the work progresses, no  
23 share, however, being liable in any event to assess-  
24 ment amounting in the whole to more than one hun-  
25 dred dollars. They may establish rules for the  
26 government of their own proceedings, and may fill any  
27 vacancy which may occur in their own board subse-  
27 quent to the regular annual meeting.

SECT. 7. For the purpose of raising means and  
2 funds to accomplish the objects and purposes of this  
3 act, said corporation is hereby authorized to make and  
4 issue its bonds in such form and manner and payable at  
5 such time as the directors may, under the circumstan-

6 ces, deem advisable, and it may secure the principal and  
7 interest of said bonds by a mortgage of its railroad and  
8 all its lands, property, rights, privileges and fran-  
9 chises then possessed, held or owned, or thereafter ac-  
10 quired by said corporation, made to such persons as  
11 trustees, and in such form and manner as the directors  
12 may appoint and subscribe.

SECT. 8. The treasurer shall give notice in the man-  
2 ner directed by the by-laws, of all assessments upon  
3 the stock of said corporation ordered by the directors,  
4 and if any stockholder shall neglect, for the space of  
5 thirty days after such notice is given, to pay any as-  
6 sessment on his share or shares, the directors may order  
7 the treasurer to sell such share or shares at public  
8 auction to the highest bidder, after giving such rea-  
9 sonable notice of the time and place of sale as the di-  
10 rectors may prescribe, and such share or shares shall  
11 be duly transferred to the purchaser, and such delin-  
12 quent stockholder shall be held accountable to the  
13 corporation for the balance, if such share or shares  
14 shall sell for a less amount than the assessments due  
15 thereon with interest and cost of sale, and in like man-  
16 ner shall be entitled to the surplus in the event that  
17 the proceeds of the sale shall exceed the assessments,  
18 interest and cost of sale.

SECT. 9. A toll is hereby granted and established, 2 for the sole benefit of said corporation, upon all pas- 3 sengers and all property of all descriptions which may 4 be conveyed or transported by it upon its railroad at 5 such rates as may be agreed upon or established, from 6 time to time, by the directors. The transportation of 7 persons and property, the forms and construction of 8 cars, the weights of loads and all other matters and 9 things relating to the equipment, running and man- 10 agement of said railroad shall be in conformity with 11 such rules and regulations as the directors may, from 12 time to time prescribe. The legislature may author- 13 ize any other railroad company to make connection 14 with the railroad of this company at any point on the 15 line of its route, and no discrimination in the rates of 16 freight or passengers shall be made by this corporation, 17 nor by any party or parties who may operate its line 18 of railroad, or any part thereof, against railroad corpo- 19 rations having the right to connect with the railroad of 20 this company, but all passengers and all freight coming 21 from or going to such connecting railroads shall be 22 transported promptly, and at the same rates of toll and 23 freight charged by said corporation for transportation, 24 commencing and terminating on its own line of rail- 25 road.

SECT. 10. Said corporation shall have power to make,

2 ordain and establish all necessary by-laws and regula-  
3 tions, consistent with the constitution and laws of this  
4 state, for its own government, and for the due and  
5 orderly conducting of its affairs, and management of  
6 its property ; and it is also hereby authorized and em-  
7 powered to make connection with any other railroad  
8 corporation, or to lease its line of railroad and property,  
9 either before or after its completion, to any other rail-  
10 road company, upon such terms as may be mutually  
11 agreed upon, which lease shall be binding upon the  
12 parties for the time named therein.

SECT. 11. The annual meeting of said corporation  
2 shall be holden at such time as the by-laws shall pre-  
3 scribe, and at such place as the directors for the time  
4 being shall appoint, at which meeting the directors  
5 shall be chosen by ballot, each stockholder by himself  
6 or his proxy being entitled at such meetings of the  
7 corporation to as many votes as he holds shares ; and  
8 the directors are hereby authorized to call special meet-  
9 ings of the stockholders whenever they shall deem it  
10 proper and expedient. Notice of all meetings of the  
11 stockholders shall be given in such manner as the by-  
12 laws shall require or as the directors for the time being  
13 shall order.

SECT. 12. All real estate purchased by said corpora-  
2 tion, except the line of its railroad and right of way,

3 shall be taxable to said corporation in the towns in  
4 which it may be situated, in the same manner as real  
5 estate owned by private persons in the same localities,  
6 and not otherwise ; and the shares owned by the stock-  
7 holders shall be deemed personal property, and taxable,  
8 as such, to the respective owners thereof in the places  
9 where they reside and have their homes.

SECT. 13. Any five of the corporators named in the  
2 first section of this act are hereby authorized to call a  
3 meeting of the corporators for the purpose of accepting  
4 this act, and making a preliminary organization of the  
5 corporation ; and at such meeting they may determine  
6 when and in what manner books shall be opened for  
7 subscription to stock, and how subsequent meetings of  
8 the corporation shall be called and notified, and may  
9 transact any other business which may be deemed  
10 necessary in carrying forward and completing the  
11 organization of the corporation. The attendance of  
12 five of the corporators shall constitute a quorum for  
13 the transaction of business, but a less number may  
14 adjourn from day to day or to a time certain.

SECT. 14. If said corporation shall not be organized,  
2 and a location of its line according to actual survey  
3 shall not be filed with the county commissioners of the  
4 several counties through which the railroad shall pass,  
5 on or before the first day of January, eighteen hundred

6 and seventy-five, or if said corporation shall fail to  
7 complete said railroad on or before the first day of  
8 January, eighteen hundred and eighty, then in either  
9 of the above mentioned cases this act shall be null and  
10 void as to all that part of said railroad not completed  
11 and finished on or before the date last above named.

SECT. 15. This act shall take effect when approved.



STATE OF MAINE.

IN SENATE, February 10, 1872.

Submitted by Mr. HINKS, and on his motion laid on the table and ordered to be printed, together with the accompanying Minority Report.

SAMUEL W. LANE, *Secretary.*