

MAINE STATE LEGISLATURE

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FIFTY-THIRD LEGISLATURE.

HOUSE.

No. 69.

STATE OF MAINE.

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

AN ACT to incorporate the Marginal Railway Company.

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

SECTION 1. George P. Wescott, Augustus E. Stevens, Woodbury S. Dana, William D. Putnam, Jacob McLellan, Samuel J. Anderson, Lewis Pierce, John Lynch, their associates and successors, are hereby created a body corporate and politic under the name of the Marginal Railway Company.

SECT. 2. Said corporation in such manner as may be prescribed and directed by the board of mayor and aldermen of the city of Portland, may construct, maintain and use a street railway, with suitable turnouts, and with such tracks, not more than two, as the said board may from time to time permit ; the rails for said

7 track or tracks to be of such pattern as the board of
8 mayor and aldermen may prescribe, and which shall
9 also be suitable for railway, freight and passenger
10 cars in common use, commencing at foot of India street
11 on Commercial street; thence along and over Commer-
12 cial, Canal and West Commercial streets, to Danforth
13 street; thence around Bramhall's hill, along and over
14 such street as the city authorities may hereafter lay
15 out, to its intersection with the Marginal street
16 or East Commercial street, or both, to "D" street,
17 so called; thence along and over such street as
18 may be hereafter laid out, to a connection with the
19 point of commencement; with the right also to con-
20 struct, use, maintain, side tracks from the main tracks
21 to any wharf or wharves, or warehouses, when re-
22 quested in writing so to do, by a majority in interest
23 of the owners of such wharves or warehouses; but no
24 material change or alteration shall be made of any side
25 track now or hereafter laid on Commercial or other
26 streets, connecting with the main tracks upon any
27 wharf or wharves, without the written assent of the
28 proprietors of said wharf or wharves, or of a majority
29 in interest of the owners of such wharf or wharves, if
30 the same is private property. *Provided however,* that
31 no track shall be laid upon any street without the
32 consent and approval of the board of mayor and alder-

33 men, and except upon such conditions, stipulations
34 and regulations, and upon said company paying to the
35 city not less than one-half the cost of any street so
36 occupied by the said Marginal Railway Company, as
37 said board of mayor and aldermen may require.

SECT. 3. Said corporation are hereby empowered
2 and authorized to take and hold as for public uses,
3 all tracks on Commercial street in said city, and all
4 side tracks leading therefrom within the street lines,
5 and all the rights and privileges which any railroad
6 company now has in and to said street, directly or
7 indirectly, by virtue of the contract between the city
8 of Portland and the Atlantic and St. Lawrence Rail-
9 road Company, dated April first, eighteen hundred and
10 fifty, or by location, or in any other manner whatso-
11 ever. And if the parties cannot agree as to damages,
12 they shall be estimated and paid as provided in chap-
13 ter fifty-one, revised statutes, and acts amendatory.

SECT. 4. Said railway shall be used by said corpor-
2 ation for the transportation of freight, passengers and
3 cars, and the motive power used shall be from time to
4 time prescribed by the board of mayor and aldermen.

SECT. 5. Every steam railway corporation now incor-
2 porated or which may be hereafter incorporated, by or
3 near whose road said marginal railway passes, shall in
4 the manner prescribed by said board of mayor and alder-

5 men, have the right to connect its track with the same
6 for the transportation of freight, passengers and cars,
7 and every steam railroad is empowered to make such
8 connection, and in so doing such railroad companies
9 shall have all the rights and be subject to all the lia-
10 bilities set forth in the fifty-first chapter of the revised
11 statutes, except as herein otherwise provided, and it
12 shall be the duty of the marginal railway company to
13 receive and deliver all cars at each of said connections
14 and haul the same over its road at established uniform
15 rates, giving each road and wharf equal facilities, and
16 equal rates.

SECT. 6. The marginal railway company shall have
2 the power to fix such tolls for the transportation of
3 freight, passengers and cars, as they from time to time
4 deem expedient, subject to the provisions of section
5 twelfth.

SECT. 7. Said corporation shall cause so much of
2 any streets as it may use, not less than four feet on
3 each side of the outmost rails, and all space between,
4 to be paved throughout, so as to make the crossing
5 thereof easy and safe, and keep the same in thorough
6 repair; and if the city shall at any time pave or re-
7 pave the rest of any street used by said corporation,
8 said corporation shall, at the same time and in the same

9 manner, and with the same materials, pave or re-pave
10 the part used by it.

SECT. 8. Said corporation shall save the city harm-
2 less from all damage to individuals occasioned by any
3 defect or want of repairs of such portion of any streets
4 as may be in use by said company or by any manage-
5 ment of trains or accident arising in the use or im-
6 provement thereof by said company, for which any
7 liability would attach to said city.

SECT. 9. The capital stock of the corporation hereby
2 created shall be five hundred thousand dollars, and
3 shall be divided into shares of one hundred dollars
4 each. *Provided*, that no liabilities shall be incurred
5 until one-half of the stock shall be subscribed for by
6 responsible parties, and twenty per cent. of the sub-
7 scription paid in cash; *and provided further*, that if one-
8 half of said stock shall not have been subscribed for,
9 and twenty per cent. thereof paid in as above provided
10 before January first, eighteen hundred and seventy-
11 five, then this act shall be wholly void.

SECT. 10. The Maine Central Railroad Company,
2 the Portland, Saco and Portsmouth Railroad Company,
3 or the Eastern Railroad Company, instead of the Port-
4 land, Saco and Portsmouth Railroad Company, the
5 Atlantic and Saint Lawrence Railroad Company or the
6 Grand Trunk Railway Company of Canada, in lieu of

7 said last named road, the Portland and Ogdensburg
8 Railroad Company, the Portland and Rochester Rail-
9 road Company, and the Boston and Maine Railroad
10 Company, are each of them authorized to subscribe for,
11 take, hold, and pay for not exceeding one-seventh of
12 the capital stock of the Marginal Railway Company ;
13 *provided, nevertheless*, that if any company refuses or
14 neglects to subscribe within four months after said Mar-
15 ginal Railway Company has been organized and given
16 notice in writing of its readiness to receive subscrip-
17 tions, then the stock allotted to any company not so
18 subscribing or any part thereof not subscribed for, shall
19 be divided among the remaining companies who wish
20 to subscribe for it, in proportion to their stock ; the
21 remaining one-seventh of the capital stock may be sub-
22 scribed for and taken by individuals within five months
23 after the organization of the corporation, otherwise it
24 shall be apportioned as hereinbefore provided in the
25 case of stock allotted to railroad companies, and not
26 subscribed for.

SECT. 11. The board of mayor and aldermen shall
2 at all times have full power to regulate time and man-
3 ner of running cars on the Marginal Railway.

SECT. 12. If any railroad company or wharf, which
2 has connected its track with that of the Marginal Rail-
3 way Company under the provisions of section five of

4 this act, is aggrieved by not having had afforded to it
5 equal facilities and equal rates, and by its cars not
6 being received and delivered as provided in said sec-
7 tion, or by any unjust or extortionate rates or tolls, it
8 may have remedy by a bill in equity, and after such
9 bill is filed any judge of the supreme judicial court
10 may, after a hearing on such notice as he directs, make
11 such interlocutory decree as he deems just, which shall
12 govern the relations of the parties until the final decree.

SECT. 13. The city of Portland shall at and after
2 the expiration of five years from the date of the ap-
3 proval of this act, have the right to take, exercise and
4 control all the property, rights and privileges of said
5 corporation, on paying to said corporation such sum as
6 may be agreed upon by the city and said corporation ;
7 or in case they cannot agree upon the sum to be paid,
8 such sum as shall be fixed upon by three commission-
9 ers, who shall be appointed by the supreme court,
10 upon the application of said city, and who shall fairly
11 appraise the property and rights of said company and
12 return their report thereof to the supreme judicial
13 court in the county of Cumberland, which report, when
14 accepted, shall be final and conclusive upon the par-
15 ties, and the said court may make any orders or de-
16 crees or issue any process necessary to carry the same
17 into effect.

SECT. 14. The Marginal Railway Company shall
2 have all the rights and be subject to all the liabilities
3 provided in chapter fifty-one of the revised statutes,
4 except as herein otherwise provided.

SECT. 15. The board of mayor and aldermen of said
2 city may prescribe under suitable regulations, or pro-
3 hibit the loading or unloading of wood, timber, fuel,
4 and such other merchandise, into or from any car
5 standing upon any street so occupied by said railway
6 company, as said board may deem expedient.

SECT. 16. This act shall take effect when approved.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 19, 1874. }

Laid on the table by Mr. PULLEN, of Portland, and ordered to
be printed.

S. J. CHADBOURNE, *Clerk.*