

# MAINE STATE LEGISLATURE

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Copy of Amended Bill passed in to the Committee but no  
acted upon.

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Sixty-Fifth Legislature.

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HOUSE.

No. 273.

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STATE OF MAINE.

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

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AN ACT to incorporate the Portland and Westbrook Street  
Railway Company.

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

SECTION 1. Lemuel S. Lane, Frank Haskell, Charles  
2 B. Woodman, Nathan Cleaves, Stephen R. Small, Pren-  
3 tiss Loring, George E. Macomber, J. Manchester Haynes,  
4 Orville D. Baker, Horace H. Shaw, James P. Baxter and  
5 John H. Fogg, their associates, successors and assigns,  
6 are hereby constituted a corporation by the name of the  
7 Portland & Westbrook Street Railway Company, with  
8 authority to construct, maintain and operate by electricity

9 or animal power for a period of twenty-five years a street  
10 railway, with convenient single or double tracks, side-  
11 tracks, switches, or turnouts, with all necessary or con-  
12 venient lines of poles, wires, appliances, appurtenances  
13 and conduits, from some point near the house of Simon  
14 Cutter on Main street in the village of Saccarappa, in the  
15 town of Westbrook, and extending along said Main street  
16 to and through Warren street to Cumberland street in the  
17 village of Cumberland Mills, in said town of Westbrook,  
18 thence along said Cumberland street and the county road,  
19 or Portland road, so called, through Nason's Corner, so  
20 called, and Brighton Corner, so called, to and along  
21 Grove street in the city of Portland to Portland street, in  
22 said city, along said Portland street to High street;  
23 thence along said High street to Cumberland street to  
24 Green street; thence along Green street to the northerly  
25 line of Congress street.

Said corporation shall have authority to construct, main-  
27 tain and operate said railroad upon and over any lands  
28 where the land damages have been mutually settled by  
29 said corporation and the owners thereof; provided, how-  
30 ever, that all tracks of said railroad shall be laid at such  
31 distances from the sidewalks of said towns and city as the  
32 respective municipal officers thereof respectively shall in  
33 their order fixing the routes of said railroad determine to be  
34 for the public safety and convenience. The written assent  
35 of said corporation to any vote, or votes of the municipal  
36 officers of said towns or said city, prescribing from time  
37 to time the routes of said railroad shall be filed with the  
38 respective clerks of said towns and city, and shall be  
39 taken and deemed to be the location thereof. Said cor-

40 poration shall have power from time to time to fix such  
 41 rates of compensation for transporting persons or property  
 42 as it may think expedient, and generally shall have all the  
 43 powers and be subject to all the liabilities of corporations  
 44 as set forth in the 46th chapter of the Revised Statutes.

SECT. 2. The municipal officers of said towns and city  
 2 shall have power at all times within their municipal limits  
 3 to make all such regulations as to the rate of speed, and  
 4 removal of snow and ice from the streets, roads and high-  
 5 ways by said company as the public convenience and safety  
 6 may require.

SECT. 3. Said corporation shall keep and maintain in  
 2 repair such portions of the streets, town or county roads,  
 3 as shall be occupied by the tracks of its railroad, and  
 4 shall make all other repairs of said streets or roads  
 5 which shall be rendered necessary by the occupation of  
 6 the same by said railroad. And if not repaired upon  
 7 reasonable notice such repairs may be made by said towns  
 8 or city within their respective limits at the expense of  
 9 said corporation. Said corporation shall be liable for any  
 10 loss or damage which any person may sustain by reason  
 11 of any carelessness, neglect or misconduct of its agents  
 12 or servants, or by reason of any defect in so much of  
 13 said streets or road as is occupied by said railroad, if  
 14 such defect arises from neglect or misconduct of the cor-  
 15 poration, its servants or agents; and in actions brought  
 16 against the company to recover damages by reason of  
 17 such defects, the plaintiff shall have the rights and be  
 18 subject to the burdens of proof and limitations and con-  
 19 ditions provided by the general statutes applicable to suits  
 20 for such causes against towns as now existing, the direct-

21 ors of said company standing in this respect in place of  
22 town officers.

SECT. 4. If any person shall wilfully and maliciously  
2 obstruct such corporation in the use of its roads, tracks or  
3 property, or the passing of cars or carriages of said corpo-  
4 ration thereon, such persons and all who aid and abet  
5 therein shall be punished by a fine not exceeding two hun-  
6 dred dollars, or may be imprisoned in the county jail for a  
7 period not exceeding sixty days.

SECT. 5. The capital stock of said corporation shall not  
2 exceed three hundred thousand dollars, to be divided into  
3 shares of one hundred dollars each.

SECT. 6. Said corporation may lease, purchase, receive,  
2 let, dispose of or hold such real or personal estate and  
3 motive power as may be necessary or convenient for the  
4 purposes and management of said railroad.

SECT. 7. Said railroad shall be constructed and main-  
2 tained in such form and manner and with such rails and  
3 other appliances as may be deemed necessary by the cor-  
4 poration, and the municipal officers of said towns and  
5 city, and upon such grades as the municipal officers  
6 of said towns and city may direct; and whenever in the  
7 judgment of said corporation it shall be necessary to alter  
8 the grade of any street, city or county road, said altera-  
9 tions may be made at the sole expense of said corporation,  
10 provided, the same shall be assented to by the municipal  
11 officers of said towns and city, respectively. If the tracks of  
12 said corporation's railroad cross any other railroad of any  
13 kind in said towns or city and a dispute arises in any way  
14 in regard to the manner of crossing, the board railroad  
15 commissioners of the State shall upon hearing decide and

16 determine in writing in what manner the crossing shall be  
17 made, and it shall be constructed accordingly.

SECT. 8. Said corporation may change the location of  
2 said railroad by first obtaining the written consent of the  
3 municipal officers of said towns or city, and make additional  
4 locations subject to the fore-going provisions and conditions.

SECT. 9. Nothing in this act shall be construed to pre-  
2 vent the proper authorities of said towns or city from  
3 entering upon and temporarily taking up the streets, town  
4 or county roads occupied by said railroad, for any purposes  
5 for which they may now lawfully take up the same.

SECT. 10. No other corporation or person shall be  
2 permitted to construct or maintain any railroad for similar  
3 purposes over the same streets, roads or ways, that may  
4 be lawfully occupied by this corporation, but any person  
5 or corporation lawfully operating any street railroad to  
6 any point to which this corporation's tracks extend, may  
7 enter upon, connect with and use the same on such terms  
8 and in such manner as may be agreed upon between the  
9 parties, or, if they shall not agree, as may be determined  
10 by the Railroad Commissioners of Maine.

SECT. 11. Said railroad shall not be deemed to be a  
2 railroad within the meaning of that term as used in the  
3 Revised Statutes and Public Laws of this State, but shall  
4 have all the rights and be subject to all the liabilities of  
5 street railroads within this State.

SECT. 12. Said corporation is hereby authorized to  
2 issue bonds not exceeding the amount of the capital stock  
3 of said corporation in such sums and on such times and  
4 terms as it may from time to time determine in aid of the  
5 purposes specified in this act or for any money which it may

6 borrow for any purpose sanctioned by law, and secure the  
7 same by a mortgage of its franchises and property. All  
8 bonds which shall be issued by said company, shall be  
9 binding and collectible in law, notwithstanding such bonds  
10 may be negotiated and sold by said corporation or its  
11 agents, at less than their par value.

SECT. 13. Said corporation is hereby authorized to  
2 lease all of its property and franchises on such terms as it  
3 may determine. Also to consolidate with or to acquire  
4 by lease, purchase or otherwise the lines, property and  
5 franchises of any other street railroad whose lines as con-  
6 structed or chartered would form connecting or continuing  
7 lines with the lines of this company, and in such case this  
8 corporation shall be entitled to all the privileges and be  
9 subject to all appropriate conditions and limitations con-  
10 tained in the charters thus united with or acquired.

SECT. 14. Whenever it is practicable to use the exist-  
2 ing poles of any electric light, telephone or telegraph  
3 company, or any tree or structure of any kind, for any of  
4 the wires of said corporation, and the owner thereof con-  
5 sents to the free use of the same, or at a price satisfactory  
6 to said corporation, the said corporation shall make use  
7 of the same; and the decision as to the practicability of  
8 such use shall be left to three persons skilled in the  
9 science of electricity, one to be chosen by said corpora-  
10 tion, one by the municipal officers, and the third by the  
11 two so chosen; the decision of the majority of said board  
12 shall be final and the expense of said tribunal shall be  
13 borne by said corporation. In the erection and mainte-  
14 nance of its poles, posts and wires, the said corporation  
15 shall be subject to the general laws of the State, regulat-

16 ing the erection of posts and lines for the purposes of  
17 electricity.

SECT. 15. The main line of said railroad, from said  
2 Westbrook to said Portland, shall be constructed and com-  
3 pleted within two years from the approval of this act,  
4 otherwise this charter shall be void.

SECT. 16. The first meeting of said corporation shall  
2 be called in the manner provided in the Revised Statutes,  
3 chapter 46, section 3.

SECT. 17. This act shall take effect when approved.



## MAJORITY REPORT.

The Committee on Railroads, Telegraph and Expresses to which was referred the bill, entitled "An Act to incorporate the Portland and Westbrook Street Railway Company," have had the same under consideration, and ask leave to report that the same ought not to pass.

EDWARD MOORE,  
A. R. G. SMITH,  
W. M. AYER,  
CH. H. OSGOOD,  
F. H. HARGRAVES,  
J. W. PORTER,  
A. D. BIRD.

## MINORITY REPORT.

The undersigned members of the Committee on Railroads, Telegraphs and Expresses, to which was referred the petitions of Lemuel S. Lane and others, for a charter for a street railroad from Westbrook to Portland, dissent from the report of the other members of said committee, that legislation is expedient upon said petitions and against the granting of a charter for said street railroad between said places.

It is evident that public convenience and necessity require cheaper and more frequent communication between said city of Westbrook and said city of Portland, and that the inhabitants living upon the proposed line in Westbrook, Deering and Portland would be greatly benefitted thereby, and that such a line would greatly promote the growth and prosperity of both of said cities.

Westbrook is now a flourishing city, and during the last ten years has grown more rapidly in wealth and population than any town in Cumberland county. It now has a population of nearly seven thousand inhabitants, with a fine water power and a great variety of mills, manufactories and places of business. Its distance from Portland is about six miles, and nearly all of its inhabitants have intimate business relations with the city of Portland.

At the hearing before the committee, petitions of the present *Mayor of the city of Westbrook*, and *over one hundred* of its most influential men asked by petition for a charter for this purpose, and several of its prominent citizens appeared before the committee in person, requesting that the charter might be granted. From the town of Deering over seventy-five prominent citizens along the proposed line petitioned that a charter should be granted, and over one hun-

dred and twenty of the most prominent, wealthy merchants and business men of Portland have asked the Legislature to grant this charter.

Council for the Portland Railroad Company appeared before the committee, in opposition to granting the charter, but not a witness was called in opposition to its being granted. The Portland Railroad Company over thirty years ago was granted a roving charter through the old town of Westbrook but it has never built a foot of road in the present city of Westbrook, although it extended its road many years ago to Morrill's Corner in that portion of the old town of Westbrook which is now Deering. This railroad has often been requested to extend its lines to Cumberland Mills and Saccarappa in the city of Westbrook.

The chief objections raised at the hearing were as to the character of the charter in the first instance presented to the Committee, and it was claimed that it did not define the proposed route, that the time of its existence should be limited to a certain number of years, and there should be a clause of forfeiture in the same, if the road was not built within a limited period, and that the abbuttors were not sufficiently protected, and that not sufficient power was given to the municipal officers in relation to the taking up and repairing of the streets. Every objection that was made was acquiesced in by the counsel for the petitioners, and the charter was amended by such counsel to fully meet the objections made by the counsel for the Portland Railroad Company.

A letter was presented to the Committee from Hon. George P. Wescott, President of the Portland and Rochester Railroad, against the granting of said charter. This was the only remonstrance from any source, that appeared to the Committee, against the granting of such charter.

It was further claimed that the inhabitants of the town of Deering and the cities of Westbrook and Portland had already sufficient railroad accommodations, but we believe that the petitioners themselves are the best judges of their own needs and necessities.

The incorporators in this charter are able and financially responsible men, and one of them appeared before the committee and expressed a willingness to give a bond that if the charter was granted, the road would be built within two years.

Under these circumstances the undersigned dissent from the report of the majority of said Railroad Committee, and beg leave to report the accompanying bill for the consideration of the legislature.

W. H. HUNT,  
JOHN F. HILL,  
CHAS. P. ALLEN.

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES. }  
March 18, 1891. }

Tabled, pending acceptance of either report, by Mr. AYER of Oakland, and both reports and bill ordered printed.

W. S. COTTON, *Clerk.*