

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 113

House of Representatives, Feb. 10, 1915.

Ordered, that one thousand copies be printed and that the same be referred to the Committee on Railroads and Expresses.

Committee on Reference.

Presented by Mr. Pierce of Houlton.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIFTEEN

AN ACT to Authorize the Reorganization or Consolidation of
the Railroad Companies that Constitute the Boston and Maine
Railroad System.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The Boston & Maine Railroad is hereby au-
2 thorized, without the requirement of a public hearing or
3 other formality, to buy the property or franchises, or the
4 whole or any part of the capital stock of any or all of the
5 railroad corporations, either in or outside of this state
6 whose roads have lately been operated by it as a part of
7 its system of railroads, and to make new contracts and to
8 modify existing contracts with any of these corporations,

9 or to assume their debts or obligations, either wholly or
10 in part, with a view to the economical and profitable op-
11 eration of this system, and to a reorganization or consol-
12 idation of these railroads with itself. These railroad cor-
13 porations are authorized to sell their properties and fran-
14 chises to the Boston & Maine Railroad, and to receive pay-
15 ment in money or in stocks or bonds of the Boston & Maine
16 Railroad so far as authority for such sales can be given by
17 this act, and to distribute such securities or any part thereof
18 among their stockholders, and to make new contracts or
19 to modify existing contracts with the Boston & Maine Rail-
20 road, in reference to the control or operation or ownership
21 of their respective railroads. Such sales or other contracts
22 may provide for a merger of the other corporation with the
23 Boston & Maine Railroad, so that the other corporation shall
24 cease to have a separate existence after the complete satis-
25 faction of all its debts and legal obligations by the Boston &
26 Maine Railroad, or they may provide for its continuance as
27 a separate corporation, entitled to receive its just share of
28 the net earnings of the entire system to which it belongs, the
29 share to be determined in some equitable prescribed way, or
30 to be a fixed sum stated in the contract. In case of a merger
31 the Boston & Maine Railroad shall succeed to all its rights
32 and be bound to perform all its corporate duties.

Sect. 2. The Boston & Maine Railroad may issue new
2 preferred stock and may increase the issue of its present
3 preferred stock or its common stock. This may be divided

4 into different classes, bearing different rates of dividend and
5 order of preference and different voting powers. With the
6 approval of the Public Utilities Commission of Maine,
7 which, in considering the matter, shall act with the Public
8 Service Commission of Massachusetts, and the Public Ser-
9 vice Commission of New Hampshire, in holding necessary
10 hearings, and in conferences in regard to conclusions, so
11 far as such action is authorized by similar legislation upon
12 the same subject in these two states, it may issue bonds,
13 either secured by mortgage upon its railroad and other prop-
14 erty, or unsecured, and it may then use any of such stock
15 or bonds in making payment to any of these railroad corpo-
16 rations for property or franchises purchased, or for the sat-
17 isfaction of obligations of the Boston & Maine Railroad now
18 outstanding or hereafter assumed or contracted, or may ex-
19 change them for the stock of any of these railroads, or may
20 dispose of them by subscription or sale for prices to be paid
21 in money. In no case shall the securities of the Boston &
22 Maine Railroad given in exchange for any of the stocks of
23 the other companies provide for interest or dividends at a
24 fixed rate that shall aggregate more than those provided by
25 the present leases or agreements of such companies.

The amount of bonds and the aggregate amount of stocks
27 that may be issued shall be subject to the approval of the
28 Public Utilities Commission of Maine, which, in considering
29 the matter, shall act with the Public Service Commission of
30 Massachusetts, and the Public Service Commission of New

31 Hampshire, in holding necessary hearings and in conferences
32 in regard to conclusions, so far as such action is authorized
33 by similar legislation upon the same subject in these two
34 states but the present statutory limitations upon such is-
35 sues shall not be applicable upon the basis of the present
36 capitalization and indebtedness of the Boston & Maine Rail-
37 road; and in determining these amounts the previously exist-
38 ing capitalization and debts of the Boston & Maine Railroad
39 of every kind, and of the several railroads that are reorgan-
40 ized or consolidated with the Boston & Maine Railroad shall
41 be considered. The Boston & Maine Railroad shall not
42 hereafter be under any statutory restriction upon its right
43 to sell and dispose of stock held by it in any of the corpo-
44 rations whose railroads it now operates. Any new stock
45 of the Boston & Maine Railroad issued under the provisions
46 of this act need not be first offered to the present stockhold-
47 ers of the company for subscription.

Sect. 3. If any corporation whose road, franchises, prop-
2 erty or capital stock the Boston & Maine Railroad is herein
3 authorized to purchase is a corporation organized under the
4 laws of the state of Massachusetts, the state of New Hamp-
5 shire, the state of Vermont, the state of New York or the
6 Dominion of Canada, the Boston & Maine Railroad is also
7 hereby authorized to purchase the road, franchises and prop-
8 erty, or a part or all of the capital stock of such corpora-
9 tion, and to make contracts in regard to the same, in such
10 manner in each case as the laws of the state or country of

11 such corporation may authorize or prescribe, and in refer-
12 ence to such purchase or contracts shall have all the powers
13 and privileges conferred upon it by the laws of the state or
14 country of such corporation.

Sect. 4. If, in the opinion of the board of directors, on
2 account of financial embarrassment or for any other reason
3 it is impracticable for the Boston & Maine Railroad to con-
4 summate such a reorganization within a reasonable time, or
5 if said corporation goes under the management of a receiver
6 or receivers appointed by a court of competent jurisdiction,
7 a new corporation may be organized to take over the prop-
8 erty of the Boston & Maine Railroad, either before or after
9 a sale or other disposition of it under an order of the court,
10 and to obtain for reorganization or consolidation with itself
11 the properties and franchises of any or all of the other cor-
12 porations hereinbefore referred to.

The organizers of this proposed corporation shall file in
14 the office of the secretary of state a written agreement of
15 association signed by at least fifteen persons of whom one
16 at least shall be a citizen of Maine, which shall set forth:

(a) That the subscribers associate themselves with the
18 intention of forming a railroad company.

(b) The corporate name assumed, shall be The Boston
20 & Maine Railroad Company.

(c) A brief description of the Boston & Maine Railroad
22 purchased or expected to be purchased, and of other rail-

23 roads proposed to be brought into reorganization or con-
24 solidation with it.

(d) If a sale of the Boston & Maine Railroad has been
26 made, the name of the court by which the sale was ordered,
27 the date of such order and the date of the sale.

(e) The amount of the proposed capital stock of the
29 company, which shall be fixed at an amount approved by
30 the Public Utilities Commission of Maine, which in con-
31 sidering the matter shall act with the Public Service Com-
32 mission of Massachusetts and the Public Service Commis-
33 sion of New Hampshire, in holding necessary hearings and
34 in conferences in regard to conclusions, so far as such action
35 is authorized by similar legislation upon the same subject
36 in these two states, and which capital stock, except as here-
37 inafter stated, may equal but shall not exceed the aggregate
38 of the capitalization, including the stock and debts of every
39 kind of the railroad and property acquired or to be acquired
40 through the sale, and the railroads and property proposed
41 to be brought into the intended reorganization or consolida-
42 tion, with such additional sum as was received by these
43 railroad corporations from the excess above the par value
44 of stock or bonds issued or disposed of by them at a price
45 above their par value.

(f) The par value of the shares, which shall be \$100.

(g) The names and residences of at least five persons,
48 of whom one at least shall be a citizen of Maine, who shall
49 be subscribers to the agreement of association, to act as

50 directors until others are chosen and qualified in their stead.
51 Each associate shall subscribe to the agreement of associa-
52 tion his name, residence, post office address and the number
53 of shares of stock which he agrees to take.

The capital stock fixed as aforesaid may for good cause
55 shown be increased at any time, within the above limitations,
56 under the authority of the commission that fixed it.

Until the stock of the corporation is taken and paid for,
58 either in cash or by an exchange of property, and except so
59 far as it is taken and paid for, the power and control of
60 the corporation that is ordinarily exercised by stockholders
61 shall be exercised as follows, viz: if the trustees who were
62 appointed by a decree of the district court of the United
63 States for the southern district of New York on October
64 17, 1914, to take over and hold the stock of the Boston Rail-
65 road Holding Company then held by the New York, New
66 Haven and Hartford Railroad Company, and to represent
67 the interest of these two corporations in stock of the Boston
68 & Maine Railroad, have signed the agreement for the for-
69 mation of the new corporation in their official capacity, to
70 represent this interest, or have signed in like manner and
71 for the same purpose an agreement of subscription to the
72 stock of the new corporation, which signing for this purpose
73 in either case shall not create a personal liability on the
74 contract, these trustees shall be deemed stockholders, with
75 authority to represent an amount of stock equal to that
76 which they represent in the Boston & Maine Railroad; and

77 any stockholder in said Boston & Maine Railroad who signs
78 the agreement or the subscription of stock for the new
79 corporation shall be deemed a stockholder, with authority
80 to represent an amount of stock equal to his holding in the
81 Boston & Maine Railroad, and any other person who sub-
82 scribes for stock of the corporation shall be entitled to vote
83 upon his stock upon payment of ten per cent of its par value
84 either in cash or by exchange of property.

The agreement of association shall not be effective unless
86 it is signed by the trustees above referred to in their repre-
87 sentative capacity, or by other stockholders of the Boston
88 and Maine Railroad who together own a majority of the
89 stock of said railroad corporation.

Sect. 5. The directors shall appoint a clerk and a treas-
2 urer who shall hold their respective offices until a clerk and
3 treasurer of the corporation are chosen and qualified in
4 their stead. The directors shall fill any vacancies in their
5 board, or in the office of clerk or treasurer before the organ-
6 ization of the corporation.

If the Public Utilities Commission is satisfied, after a hear-
8 ing, that there is good reason to believe that the subscribers
9 intend in good faith to obtain for the corporation and to
10 use in the public interest the railroad then or formerly owned
11 by the Boston & Maine Railroad, and that there is good
12 reason to expect that they will accomplish this purpose, they
13 shall make a certificate to that effect and file it in the office
14 of the secretary of the state, who shall receive and preserve

15 it with the agreement, in a form convenient for reference
16 and open to public inspection and shall thereupon without
17 other requirement, issue a certificate of incorporation sub-
18 stantially in the form prescribed by the revised statutes,
19 chap. 51, § 3, except that in stating the purpose of the cor-
20 poration, the word "maintaining" shall be substituted for
21 "building," and the words "as follows" for "between." Such
22 certificate, duly signed and sealed, shall have the force and
23 effect of a special charter. The secretary of state shall also
24 cause a record of the certificate of incorporation to be made,
25 and such certificate or such record, or a certified copy there-
26 of, shall be conclusive evidence of the existence of such
27 corporation.

Sect. 6. Said corporation may be organized in accordance
2 with the provisions of section 4 of chapter 51 of the revised
3 statutes, and if it does not obtain the ownership and con-
4 trol of the Boston & Maine Railroad within three years
5 after the date of its certificate of incorporation its corporate
6 powers and existence shall cease.

If a statute like this in its substantive features, authoriz-
8 ing the organization of a corporation of the same name and
9 for the same purpose and with the same general powers is
10 enacted in the states of New Hampshire and Massachusetts,
11 or either of them, and if an agreement of association of the
12 same purport as that entered into under this act is signed
13 and filed by the same persons, and if similar proceedings
14 are had thereon, in one or both of these two states, under

15 requirements substantially the same as those of sections 4
16 and 5 of this act, the corporation may be organized at a
17 meeting held in either of the states where the certificate of
18 incorporation is filed of which a notice shall be given, signed
19 by a majority of the directors, and such notice shall state
20 the time, place and purposes of the meeting. A copy of said
21 notice shall, seven days at least before the day appointed for
22 the meeting, be given to each signer of the agreement of
23 association, or left at his residence or his usual place of
24 business, or deposited in the post office, postage prepaid, and
25 addressed to him at his residence or usual place of business,
26 and another copy thereof, and an affidavit of the clerk that
27 the notice has been duly served shall be recorded with the
28 records of the corporation. If all the signers of the agree-
29 ment of association shall in writing waive such notice, and
30 fix the time and place of the meeting, no notice shall be
31 required.

At such first meeting, or at any adjournment thereof, the
33 incorporators shall organize by the adoption of by-laws,
34 and by the election by ballot of not less than five directors.
35 The clerk appointed by the directors as aforesaid shall make
36 and attest a record of the proceedings until the clerk has
37 been chosen and sworn, including a record of such choice
38 and qualification.

Upon the organization of this corporation as above pro-
40 vided, and the organization with it, by joint proceedings, at
41 the same time and place, of the corporations established in

42 like manner with the same name under a like statute of one
43 or both of these two states, this corporation and the other
44 corporation or corporations shall be deemed to be one cor-
45 poration for general purposes, existing in each of the states,
46 whose business shall be conducted by one board of directors,
47 in which each state shall be represented by the membership
48 of at least one of its citizens, and whose corporate property
49 in the different states shall be held for and controlled by the
50 same stockholders. Subsequent meetings of the corpora-
51 tion may be held and its records may be kept in either of
52 the three states.

Sect. 7. The corporation so organized shall have all the
2 rights and privileges in reference to holding and using prop-
3 erty formerly of the Boston & Maine Railroad, buying other
4 railroads or their capital stock, making or modifying con-
5 tracts, assuming debts, and issuing or using stock or bonds
6 that the Boston & Maine Railroad would have had under
7 this act or under general laws, and be subject to all the
8 obligations that would have rested upon that corporation if
9 it had proceeded through all the contemplated steps for a
10 reorganization or consolidation. The other corporations
11 above referred to shall have all the rights and privileges in
12 regard to dealing with the new corporation so organized that
13 they would have had in regard to similar dealings with the
14 Boston & Maine Railroad if it were proceeding with a re-
15 organization, under this act.

The Boston & Maine Railroad shall have the same right
17 to sell its property and franchises to said new corporation,
18 and to receive the stock or other securities of the new cor-
19 poration in payment therefor, and to distribute the same
20 among its stockholders, as are herein given to other cor-
21 porations.

Stock of this company may be subscribed for by stock-
23 holders of the Boston & Maine Railroad, and may be taken
24 upon any terms agreed upon by this company and the sub-
25 scribers, in exchange for the stock or rights of these stock-
26 holders.

If the officers of the new corporation deem it important
28 to adopt a provision of this kind as a part of the plan for
29 re-organization, in addition to other provisions for stock-
30 holders of the Boston & Maine Railroad, it shall be lawful
31 to give these stockholders the right to take an amount of
32 the common stock of the new corporation equal to their
33 respective holdings in the stock of the Boston & Maine Rail-
34 road, or a proportionally less amount, with or without a
35 contribution of a stipulated sum in cash, under an agree-
36 ment that a stated amount of additional stock of the new
37 corporation of the same or a higher class shall be issued to
38 them for the cash so contributed. This right shall be as-
39 signable, and must be exercised by the stockholders or their
40 assignees within a prescribed time, not less than thirty days,
41 after the giving of notice by the new corporation by sending
42 by mail to the last known place of abode of the stockholders
43 and by publishing once a week for three successive weeks in

44 some newspaper printed in Boston, a statement that the new
45 corporation has made an agreement to purchase and take
46 over the railroad and appurtenant property of the Boston
47 & Maine Railroad, and that the stockholders of the Boston
48 & Maine Railroad are required to determine whether they
49 will exercise this right. If, after the expiration of the pre-
50 scribed time, there remains any stock of the new corpora-
51 tion which the stockholders of the Boston & Maine Railroad
52 were entitled to take under this arrangement, and did not
53 take, it may be issued upon the same terms to other parties
54 who supply the money which the stockholders and their
55 assignees failed to contribute, or may be used for the pur-
56 pose of satisfying, extending or renewing existing obliga-
57 tions of the Boston & Maine Railroad. All stock issued in
58 any of the ways above provided shall be deemed fully paid
59 and non-assessable.

In reference to the rights, privileges and obligations cre-
61 ated by this act, the Hampden Railroad Corporation incor-
62 porated under the laws of Massachusetts may be treated by
63 the Boston & Maine Railroad, in its discretion, and by the
64 new corporation, in regard to capitalization and otherwise,
65 like the other railroad corporations above referred to, and
66 in that case the above provisions shall be applicable to the
67 dealings of these two corporations with each other and with
68 the other corporations, in the same manner as if the Hamp-
69 den Railroad Corporation were included with the other cor-
70 porations referred to in the first section.

Sect. 8. The sales or purchases or other contracts specially
2 provided for by this act as applying to the different rail-
3 roads, except sales or purchases of the capital stock of stock-
4 holders, shall not be valid, except as they are severally made
5 under an order of court or authorized by a majority vote
6 of the board of directors, and also by a like vote of the
7 stockholders of each of the corporations that are directly
8 contracting parties in a sale or purchase of a railroad, or
9 its stock or franchise, or in any other contract looking to
10 the control, management or protracted operation of either
11 of said railroads by the other. All the provisions of this
12 act in reference to railroads shall also be applicable to rail-
13 ways.

For debts or obligations of other corporations assumed by
15 the Boston & Maine Railroad or by the new corporation,
16 there shall be a direct liability to the holders of the debts or
17 obligations, which may be enforced by such holders against
18 the assuming corporation.

Sect. 9. Bonds and notes and any renewal or extension
2 of the same which have been issued by the leased lines that
3 are hereafter reorganized or consolidated with the Boston
4 & Maine Railroad or with the new corporation under this
5 act and which are now a legal investment for Maine savings
6 banks or insurance companies, shall remain so until January
7 1st, 1918, or longer if the investment is then permissible
8 under the general laws; and all bonds issued or assumed by
9 the Boston & Maine Railroad or by the new corporation

10 shall be a legal investment for Maine savings banks or in-
11 surance companies, provided the said issuing or assuming
12 company, in the fiscal year previous to such investment, has
13 paid dividends upon its capital stock equal in the aggregate
14 to four per cent. upon one-half of the sum of its bonded
15 debt and notes.

Sect. 10. Nothing in this act shall be construed to deny
2 or limit the right of a dissenting stockholder, in any of the
3 railroad corporations referred to therein, to a valuation and
4 payment for his shares under the general law of the state
5 wherever the proceedings under this act are such as would
6 otherwise entitle him thereto under such general laws.