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1872

## An Act to Incorporate the Castine and Ellsworth Railroad Company

Maine State Legislature

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FIFTY-FIRST LEGISLATURE.

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HOUSE.

No. 19.

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STATE OF MAINE.

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

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AN ACT to incorporate the Castine and Ellsworth Railroad Company.

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

- SECTION 1. Samuel Adams, Wm. Witherle, J. C.  
2 Abbott, Geo. F. Tilden, W. H. Sargent, Charles  
3 Deering, D. H. Ingraham, W. F. Milliken, W. G.  
4 Sargent, C. W. Tilden, A. F. Adams, David Wasson,  
5 E. R. Bowden, J. B. Hawes, J. G. Walker, Isaac B.  
6 Leach, J. T. Hinckley, Wm. Hopkins, Seth Tisdale,  
7 N. K. Sawyer, J. D. Hopkins, Munroe Young, John  
8 F. Whitcomb, Samuel Wasson, John Stevens, Joseph  
9 Hinckley, A. H. Dresser, A. K. Chase, J. W. Dresser,  
10 J. H. Noyes, S. K. Whiting, L. G. Philbrook, Geo.  
11 W. Kimball, Jr., H. G. Berry, James P. White, Axel  
12 Hayford, S. L. Milliken, S. T. Noyes, Thomas S.

13 Fuller, Charles P. Brown, Suel B. Swazey, their  
14 associates, successors and assigns, are hereby made  
15 and constituted a body corporate and politic, by the  
16 name of the Castine and Ellsworth Railroad Company,  
17 and by this name may sue and be sued, plead and be  
18 impleaded, and shall have and enjoy all proper reme-  
19 dies at law and in equity to secure and protect them  
20 in the exercise and use of the rights and privileges,  
21 and in the performance of the duties hereinafter  
22 granted and enjoined, and to prevent all invasions  
23 thereof, or interruptions in exercising and performing  
24 the same; and the said corporation is hereby author-  
25 ized and empowered to locate, construct and finally  
26 complete, alter and keep in repair, a railroad with one  
27 or more sets of rails or tracks, with all suitable  
28 bridges, tunnels, viaducts, turnouts, culverts, drains,  
29 and all other necessary appendages, from some point  
30 in the town of Castine extending northeasterly from  
31 said town through either of the towns of Penobscot,  
32 Brooksville, Bluehill and Surry to some point in the  
33 city of Ellsworth, as may be found expedient for the  
34 purpose of forming a connection with a railroad to be  
35 constructed from Bangor through the city of Ellsworth  
36 thence easterly to the east line of the State of Maine,  
37 and said corporation may connect its railroad with the  
38 railroad aforesaid, and shall be and hereby are invested

39 with all the powers, privileges and immunities which  
40 are or may be necessary to carry into effect the pur-  
41 poses and objects of this act as herein set forth ; and  
42 for this purpose said corporation shall have the right  
43 to purchase, or to take and hold so much of the land  
44 and the real estate of private persons and corporations  
45 as may be necessary for the location, construction and  
46 convenient operation of said railroad ; and they shall  
47 also have the right to take, remove and use for the  
48 construction and repair of said railroad and appurte-  
49 nances, any earth, gravel, stone, timber or other  
50 materials on or from the land so taken : *provided how-*  
51 *ever*, this said land so taken shall not exceed six rods  
52 in width, except where greater width is necessary for  
53 the purposes of excavation or embankment ; *and pro-*  
54 *vided also*, that in all cases, said corporation shall pay  
55 for such lands, estate or materials so taken and used,  
56 such price as they and the owner or respective owners  
57 thereof may mutually agree upon ; and in case said  
58 parties shall not otherwise agree, the said corporation  
59 shall pay such damages as shall be ascertained and  
60 determined by the county commissioners for the county  
61 where such land or other property may be situated, in  
62 the same manner and under the same conditions and  
63 limitations as are by law provided in the case of  
64 damages by the laying out of highways ; and the land

65 so taken by said corporation shall be held as lands  
66 taken and appropriated for highways. And no appli-  
67 cation to said commissioners to estimate said damages  
68 shall be sustained unless made within three years from  
69 the time of taking such land or other property ; and  
70 in case such railroad shall pass through any woodland  
71 or forests, the said company shall have a right to fell  
72 or remove any trees standing therein within four rods  
73 of such road, which by their liability to be blown  
74 down, or from their natural falling might obstruct or  
75 impair said railroad, by paying a just compensation  
76 therefor, to be recovered in the same manner as pro-  
77 vided for the 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 twenty thousand shares, and the immediate govern-  
4 ment and direction of the affairs of said corporation  
5 shall be vested in five directors, who shall be chosen  
6 by the members of said corporation, in the manner  
7 hereinafter provided, and shall hold their office until  
8 others shall have been duly elected and qualified to  
9 take their place, a majority of whom shall form a  
10 quorum for the transaction of business, and they shall  
11 elect one of their number to be president of the corpo-  
12 ration, and shall have authority to choose a clerk,  
13 who shall be sworn to the faithful discharge of his duty,

14 and a treasurer who shall be sworn, and also give  
15 bonds to the corporation, with sureties to the satisfac-  
16 tion of the directors, in a sum not less than ten thou-  
17 sand dollars, for the faithful discharge of his trust; and  
18 for the purpose of receiving subscriptions to the said  
19 stock, books shall be opened under the direction of the  
20 persons named in the first section of this act, at such  
21 times as they may determine, and in such places as  
22 they shall appoint, to remain open for thirty successive  
23 days at least, of which time and place of subscription  
24 public notice shall be given in one newspaper printed  
25 in the county of Hancock ten days before the opening  
26 of such subscriptions; and any seven of the persons  
27 named in the first section of this act are hereby author-  
28 ized to call the first meeting of said corporation, for  
29 the choice of directors and organization, by giving  
30 notice in one or more newspapers published as before  
31 named, of the time and place and purposes of such  
32 meeting, at least fourteen days before the time men-  
33 tioned in such notice. The corporation shall be au-  
34 thorized to issue non preferred and preferred stock  
35 upon such terms and conditions and to such persons  
36 and corporations, and with such limitations and re-  
37 strictions as may be deemed most for the interests of  
38 the subscribers, the success of the corporation and the  
39 completion and equipment of the road, and any cities

40 or towns in the county of Hancock, deeming them-  
41 selves interested in having said railroad constructed,  
42 or to be benefited thereby, may subscribe at par value  
43 for any amount of either class of said stock, or loan  
44 their credit, or both, by a vote of two-thirds of the legal  
45 voters of any such city or town, present at any legal  
46 meeting called therefor, not to exceed twenty per cent.  
47 of the amount of the valuation of such city or town,  
48 and such vote shall be obligatory on such city or town  
49 for the payment of the amount so subscribed or loaned,  
50 and said cities and towns may issue their bonds for  
51 such stock or loan on such terms and on such time as  
52 may be agreed upon by them and said company, at a  
53 rate of interest not exceeding seven per cent., payable  
54 semi-annually, and for a period not exceeding thirty  
55 years, and all stock so subscribed for by such cities or  
56 towns, shall be represented in said corporation by the  
57 municipal authorities thereof.

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 reason 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 corporation for the purposes of locating,  
5 constructing and completing said railroad, and for the  
6 transportation of persons, goods and property of all  
7 descriptions, and all such powers and authority for the  
8 management of the affairs of the corporation, as may  
9 be necessary and proper to carry into effect the objects  
10 of this grant, to purchase and hold land, materials,  
11 engines and cars, and other necessary things, in the  
12 name of the corporation, for the use of said road, and  
13 for the transportation of persons, goods and property  
14 of all descriptions, to make such equal assessments  
15 from time to time on all the shares in said corporation  
16 as they may deem expedient and necessary in the ex-  
17 ecution and progress of the work, and direct the same  
18 to be paid to the treasurer of this corporation. And  
19 the treasurer shall give notice of all such assessments;  
20 and in case any subscriber or stockholder shall neglect  
21 to pay any assessment on his share or shares for the  
22 space of thirty days after such notice is given or shall  
23 be prescribed by the by-laws of said corporation, the  
24 directors may order the treasurer to sell such share or



25 shares at public auction, after giving such notice as  
26 may be prescribed, as aforesaid, to the highest bidder,  
27 and the same shall be transferred to the purchaser, and  
28 such delinquent subscriber or stockholder shall be held  
29 accountable to the corporation for the balance, if his  
30 share or shares shall sell for less than the assessments  
31 due thereon, with the interest and costs of sale; and  
32 shall be entitled to the overplus, if his share or shares  
33 sell for more than the assessments due, with interest  
34 and costs of sale: *provided, however*, that no assessment  
35 shall be laid upon any shares in said corporation of a  
36 greater amount in 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 pas-  
3 sengers 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  
6 from time to time by the directors of said corporation.  
8 The transportation of persons and property, the con-  
9 struction of wheels, the form of cars and carriages, the  
10 width of gauge, the rights of roads, and all other mat-  
11 ters and things in relation to said road, shall be in  
12 conformity with such rules, regulations and provisions,  
13 as the directors shall from time to time prescribe and  
14 direct. And this company is authorized to purchase,  
15 lease or build and own such vessels or steamers as they

16 shall find it necessary to run in connection with their  
17 railroad, to facilitate its business, and this company is  
18 authorized to lease its railroad to any company whose  
19 railroad may connect with it, and this company is also  
20 authorized to take a lease of any connecting railroad,  
21 which lease may be for a term of years or perpetual.

SECT. 6. The legislature may authorize any other  
2 company or companies, to connect any other railroad  
3 or railroads, with the railroad of said corporation, at  
4 any point on the route of said railroad, or at its east-  
5 erly terminus. And said corporation shall receive and  
6 transport all persons, goods and property of all descrip-  
7 tions, which may be carried and transported to the  
8 railroad of said corporation, on such other railroads as  
9 may be hereafter authorized to be connected therewith,  
10 at the same rates of toll and freight as may be pre-  
11 scribed by said corporation, so that the rates of freight  
12 and toll of such passengers and goods and other prop-  
13 erty as may be received from such other railroads so  
14 connected with said road as aforesaid, shall not exceed  
15 the general rates of freight and toll on said railroad,  
16 received for freight and passengers at any of the de-  
17 posits of said corporation.

SECT. 7. If said railroad in the course thereof, shall  
2 cross any private way, the said corporation shall so

3 construct said railroad as not to obstruct the safe and  
4 convenient use of such private way ; and if said rail-  
5 road shall in the course thereof, cross any canal, rail-  
6 road, 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 em-  
15 bankments 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  
12 of suitable engines, carriages and vehicles for trans-  
13 portation of persons and articles, and be obliged to  
14 receive at all proper times and places and carry the  
15 same, when the appropriate tolls therefor shall be paid  
16 or tendered ; and a lien is hereby created on all arti-  
17 cles transported for said tolls ; and said corporation ful-  
18 filling on its part all and singular the several obliga-  
19 tions and duties by this section imposed and enjoined  
20 upon it, shall not be held or bound to allow any en-  
21 gine, locomotive, cars, carriages or other vehicle, for  
22 the transportation of persons or merchandise, to pass  
23 over said railroad, other than its own, furnished and  
24 provided for that purpose, as herein enjoined and re-  
25 quired : *provided however*, that said corporation shall  
26 be under obligation to transport over said road the  
27 passenger and other cars of any other incorporated  
28 company, that may hereafter construct a railroad con-  
29 necting with that hereby authorized, such other com-  
30 pany being subject to all the provisions of the fifth  
31 and sixth sections of this act, as to rates of toll and  
32 all other particulars enumerated in said sections.

SECT. 10 If any person shall wilfully and mali-  
2 ciously, 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 justice  
13 or in any court proper to try the same, by the treas-  
14 urer 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

5 inspection of the governor and council, and of any  
6 committee duly authorized by the legislature, and at  
7 the expiration of every year the treasurer of said cor-  
8 poration shall make an exhibit, under oath, to the  
9 legislature, of the profits derived from the income of  
10 said 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  
5 land lies, in the same manner as lands owned by  
6 private persons, and shall, in the valuation list, be  
7 estimated the same as other adjacent lands of the same  
8 quality in such city, town or plantation, and not other-  
9 wise ; and the shares owned by the respective stock-  
10 holders, shall be deemed personal estate, and be  
11 taxable as such, to the owners thereof, in the places  
12 where they reside and have their homes. And when-  
13 ever the net income of said corporation shall have  
14 amounted to ten per centum per annum upon the cost  
15 of the road, and its appendages and incidental expenses,  
16 the directors shall make a special report of the fact to  
17 the legislature, from and after which time, one moiety,  
18 or such other portion as the legislature may, from  
19 time to time, determine, of the net income of said  
20 railroad, accruing thereafter over and above ten per

21 centum per annum first to be paid to the stockholders,  
22 shall annually be paid over to the treasurer of said  
23 corporation, as a tax in the treasury of the state, for  
24 the use of the state ; and the state may have and  
25 maintain an action against said corporation therefor,  
26 to recover the same ; but no other tax than herein is  
27 provided, shall ever be levied or assessed on said cor-  
28 poration or any of their privileges 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 directors  
5 for the time being shall appoint, at which meeting the  
6 directors shall be chosen by ballot, each proprietor, by  
7 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 enquire 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 corporation,  
8 which may be necessary more effectually to compel a  
9 compliance with the provisions, liabilities and duties  
10 hereinbefore set forth and enjoined.

SECT. 15. If the said corporation shall not have been  
2 organized, and the location, according to actual survey  
3 of the route, filed with the county commissioners of  
4 the county through which the same shall pass, on or  
5 before the thirty-first day of December, in the year of  
6 our Lord one thousand eight hundred and seventy-  
7 four, this act shall be null and void.

SECT. 16. This act shall take effect when approved  
2 by the governor.



STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES, }  
February 2, 1872. }

Reported from the Committee on Railroads, Ways and Bridges,  
by Mr. WOODBURY, and ordered printed.

S. J. CHADBOURNE, *Clerk.*