1872

An Act to Incorporate the Castine and Ellsworth Railroad Company

Maine State Legislature
STATE OF MAINE.

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

AN ACT to incorporate the Castine and Ellsworth Railroad Company.

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

Fuller, Charles P. Brown, Suel B. Swazey, their associates, successors and assigns, are hereby made and constituted a body corporate and politic, by the name of the Castine and Ellsworth Railroad Company, and by this name may sue and be sued, plead and be impleaded, and shall have and enjoy all proper remedies at law and in equity to secure and protect them in the exercise and use of the rights and privileges, and in the performance of the duties hereinafter granted and enjoined, and to prevent all invasions thereof, or interruptions in exercising and performing the same; and the said corporation is hereby authorized and empowered to locate, construct and finally complete, alter and keep in repair, a railroad with one or more sets of rails or tracks, with all suitable bridges, tunnels, viaducts, turnouts, culverts, drains, and all other necessary appendages, from some point in the town of Castine extending northeasterly from said town through either of the towns of Penobscot, Brooksville, Bluehill and Surry to some point in the city of Ellsworth, as may be found expedient for the purpose of forming a connection with a railroad to be constructed from Bangor through the city of Ellsworth thence easterly to the east line of the State of Maine, and said corporation may connect its railroad with the railroad aforesaid, and shall be and hereby are invested
with all the powers, privileges and immunities which are or may be necessary to carry into effect the purposes and objects of this act as herein set forth; and for this purpose said corporation shall have the right to purchase, or to take and hold so much of the land and the real estate of private persons and corporations as may be necessary for the location, construction and convenient operation of said railroad; and they shall also have the right to take, remove and use for the construction and repair of said railroad and appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken: provided however, this said land so taken shall not exceed six rods in width, except where greater width is necessary for the purposes of excavation or embankment; and provided also, that in all cases, said corporation shall pay for such lands, estate or materials so taken and used, such price as they and the owner or respective owners thereof may mutually agree upon; and in case said parties shall not otherwise agree, the said corporation shall pay such damages as shall be ascertained and determined by the county commissioners for the county where such land or other property may be situated, in the same manner and under the same conditions and limitations as are by law provided in the case of damages by the laying out of highways; and the land
so taken by said corporation shall be held as lands taken and appropriated for highways. And no appli-
cation to said commissioners to estimate said damages shall be sustained unless made within three years from the time of taking such land or other property; and in case such railroad shall pass through any woodland or forests, the said company shall have a right to fell or remove any trees standing therein within four rods of such road, which by their liability to be blown down, or from their natural falling might obstruct or impair said railroad, by paying a just compensation therefor, to be recovered in the same manner as pro-
vided for the recovery of other damages in this act.

Sect. 2. The capital stock of said corporation shall consist of not less than one thousand nor more than twenty thousand shares, and the immediate govern-
ment and direction of the affairs of said corporation shall be vested in five directors, who shall be chosen by the members of said corporation, in the manner hereinafter provided, and shall hold their office until others shall have been duly elected and qualified to take their place, a majority of whom shall form a quorum for the transaction of business, and they shall elect one of their number to be president of the corpo-
ration, and shall have authority to choose a clerk, who shall be sworn to the faithful discharge of his duty,
and a treasurer who shall be sworn, and also give bonds to the corporation, with sureties to the satisfaction of the directors, in a sum not less than ten thousand dollars, for the faithful discharge of his trust; and for the purpose of receiving subscriptions to the said stock, books shall be opened under the direction of the persons named in the first section of this act, at such times as they may determine, and in such places as they shall appoint, to remain open for thirty successive days at least, of which time and place of subscription public notice shall be given in one newspaper printed in the county of Hancock ten days before the opening of such subscriptions; and any seven of the persons named in the first section of this act are hereby authorized to call the first meeting of said corporation, for the choice of directors and organization, by giving notice in one or more newspapers published as before named, of the time and place and purposes of such meeting, at least fourteen days before the time mentioned in such notice. The corporation shall be authorized to issue non preferred and preferred stock upon such terms and conditions and to such persons and corporations, and with such limitations and restrictions as may be deemed most for the interests of the subscribers, the success of the corporation and the completion and equipment of the road, and any cities
or towns in the county of Hancock, deeming themselves interested in having said railroad constructed, or to be benefited thereby, may subscribe at par value for any amount of either class of said stock, or loan their credit, or both, by a vote of two-thirds of the legal voters of any such city or town, present at any legal meeting called therefor, not to exceed twenty per cent. of the amount of the valuation of such city or town, and such vote shall be obligatory on such city or town for the payment of the amount so subscribed or loaned, and said cities and towns may issue their bonds for such stock or loan on such terms and on such time as may be agreed upon by them and said company, at a rate of interest not exceeding seven per cent., payable semi-annually, and for a period not exceeding thirty years, and all stock so subscribed for by such cities or towns, shall be represented in said corporation by the municipal authorities thereof.

Sect 3. When said corporation shall take any land or other estate, as aforesaid, of any infant, person non compos mentis, or feme covert, whose husband is under guardianship, the guardian of such infant, or person non compos mentis, and such feme covert, with the guardian of her husband, shall have full power and authority to agree and settle with said corporation for damages or claims for damages by reason of taking
such land and estate as aforesaid, and give good and valid releases and discharges therefor.

Sect. 4. The president and directors for the time being are hereby authorized and empowered, by themselves or their agents, to exercise all the powers herein granted to the corporation for the purposes of locating, constructing and completing said railroad, and for the transportation of persons, goods and property of all descriptions, and all such powers and authority for the management of the affairs of the corporation, as may be necessary and proper to carry into effect the objects of this grant, to purchase and hold land, materials, engines and cars, and other necessary things, in the name of the corporation, for the use of said road, and for the transportation of persons, goods and property of all descriptions, to make such equal assessments from time to time on all the shares in said corporation as they may deem expedient and necessary in the execution and progress of the work, and direct the same to be paid to the treasurer of this corporation. And the treasurer shall give notice of all such assessments; and in case any subscriber or stockholder shall neglect to pay any assessment on his share or shares for the space of thirty days after such notice is given or shall be prescribed by the by-laws of said corporation, the 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
shall find it necessary to run in connection with their railroad, to facilitate its business, and this company is authorized to lease its railroad to any company whose railroad may connect with it, and this company is also authorized to take a lease of any connecting railroad, which lease may be for a term of years or perpetual.

Sect. 6. The legislature may authorize any other company or companies, to connect any other railroad or railroads, with the railroad of said corporation, at any point on the route of said railroad, or at its eastern terminus. And said corporation shall receive and transport all persons, goods and property of all descriptions, which may be carried and transported to the railroad of said corporation, on such other railroads as may be hereafter authorized to be connected therewith, at the same rates of toll and freight as may be prescribed by said corporation, so that the rates of freight and toll of such passengers and goods and other property as may be received from such other railroads so connected with said road as aforesaid, shall not exceed the general rates of freight and toll on said railroad, received for freight and passengers at any of the deposits of said corporation.

Sect. 7. If said railroad in the course thereof, shall cross any private way, the said corporation shall so
3 construct said railroad as not to obstruct the safe and convenient use of such private way; and if said railroad shall in the course thereof, cross any canal, railroad, or the highway, the said railroad shall be so constructed as not to obstruct the safe and convenient uses of such canal or highway; and the said corporation shall have power to raise or lower such highway or private way, so that the said railroad, if necessary, may conveniently pass over or under the same, and erect such gate or gates thereon as may be necessary for the safety of travellers on said railroad, highway or private way, and shall keep all bridges and embankments necessary for the same in good repair.

Sect. 8. Said railroad corporation shall erect and maintain substantial, legal and sufficient fences on each side of the land taken by them for their railroad, where the same passes through enclosed or improved lands, or lands that may be hereafter improved.

Sect. 9. The said corporation shall at all times, when the postmaster general shall require it, be helden to transport the mail of the United States from and to such place or places on said road as may be required, for a fair and reasonable compensation; and in case the corporation and the postmaster general shall be unable to agree upon the compensation aforesaid, the 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
centum per annum first to be paid to the stockholders, shall annually be paid over to the treasurer of said corporation, as a tax in the treasury of the state, for the use of the state; and the state may have and maintain an action against said corporation therefor, to recover the same; but no other tax than herein is provided, shall ever be levied or assessed on said corporation or any of their privileges or franchises.

**Sect. 13.** The annual meeting of the members of said corporation shall be holden on the first Monday in January, or such other day as shall be determined by the by-laws, at such time and place as the directors for the time being shall appoint, at which meeting the directors shall be chosen by ballot, each proprietor, by himself or proxy, being entitled to as many votes as he holds shares; and the directors are hereby authorized to call special meetings of the stockholders, whenever they shall deem it expedient and proper, giving such notice as the corporation, by their by-laws, shall direct.

**Sect. 14.** The legislature shall, at all times, have the right to enquire into the doings of the corporation, and into the manner in which the privileges and franchises herein and hereby granted, may have been used and employed by said corporation. And to correct and prevent all abuses of the same, and to pass any
laws imposing fines and penalties upon said corporation, which may be necessary more effectually to compel a compliance with the provisions, liabilities and duties hereinbefore set forth and enjoined.

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

Sect. 16. This act shall take effect when approved by the governor.
STATE OF MAINE.

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.