

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

SIXTYEIGHTH LEGISLATURE,

At its Session, held in January, 1836.

Published agreeably to the Resolbe of June 28, 1820.

AUGUSTA:

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1836.

MATTANAWCOOK RAIL ROAD CORPORATION.

pany, by giving notice to the other corporators, personally or in writing of the time and place of said meeting seven days at least before the holding thereof.

Chapter 170.

AN ACT to incorporate the Mattanawcook Rail Road Corporation.

Approved March 28, 1836.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That Josiah Towle, Solomon Parsons, Elisha Ayer, George W. Towle, Theodore Taylor and Joseph Porter, their associates, successors and assigns be and they hereby are made a body politic and corporate by the name of the Mattanawcook Rail Road Corporation, and by that name shall be and hereby are made capable in law to sue and be sued to final judgment and execution, plead and be impleaded, defend and be defended in any Courts of Record, or in any other place whatever; to have a common seal which they may alter at pleasure; to make and establish such by laws, not repugnant to the laws of this State, as they shall deem necessary and proper, and shall be, and hereby are vested 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 hereinafter set forth, subject however to the provisions of an Act entitled an Act defining certain rights and duties of Rail Road Corporations passed March first in the year of our Lord one thousand eight hundred and thirty six. And the said Corporation are hereby authorized and empowered to locate, construct and finally complete, alter and keep in repair a Rail Road with one or more set of rails or tracts, with all suitable bridges, viaducts, turnouts, culverts, drains and all other necessary appendages, from some point or place near the Southerly terminus of the Military Road, in the town of Lincoln in the County of Penobscot, to the vil-

Names of Corporators.

Corporate name.

Powers, &c.

lage of Milford in said County, with the privilege of connecting with the Penobscot River Rail Road Corporation, and also to extend their line of communication across the Penobscot River to the village of Oldtown in Orono, for the purpose of connecting with any Rail Road which may be constructed to Oldtown under any charter authorized by any law of this State. And for this purpose said Corporation shall have the right to take and hold so much of the land of private persons as may be necessary for the location, construction and convenient operation of their Rail Road; and they shall also have the right to take, remove and use for the construction and repair of said Rail Road and appurtenances, any earth, gravel, stone, timber or other materials on or from the land so taken. And in case such Rail Road shall pass through any wood lands or forests, the said Company shall have the right to fell or remove any trees standing within four rods of such Rail Road which by their liability to be blown down or from their natural falling might obstruct or impair said Rail Road, by paying a just compensation therefor, to be recovered in the same manner provided for the recovery of other damages—named in this Act. *Provided however*, that said land so taken shall not exceed four rods in width, except where greater width is necessary for the purposes of excavation and embankment. *And provided also*, that in all cases said Corporation shall pay for such lands, estate or materials so taken and used, as they and the owner or respective owners thereof may mutually agree on; and in case said parties shall not otherwise agree, then 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 laying out of highways. Saving to the public the right to locate and construct any highway across said Rail Road subject to the existing provisions of law for the location, construction and repair of highways. And the land so taken by said Corporation shall be held as lands taken and held for

Damages, when parties cannot agree, how obtained.

Public reservations.

Limitation for estimation of damages.

public highways. And no application 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.

Number of shares and capital stock.

Government.

SECT. 2. *Be it further enacted*, That the Capital Stock of said Corporation shall consist of not less than three thousand nor more than six thousand shares of one hundred dollars each, and the immediate government and direction of the affairs of said Corporation shall be vested in five or nine Directors, who shall be chosen by the members of said Corporation in the manner hereinafter provided, and shall hold their offices until others shall have been duly chosen and qualified in their stead, 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 Board, who shall also be the President of the Corporation, and shall have authority to choose a Clerk, who shall be sworn to the faithful discharge of his duty, and a Treasurer, who shall 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 any two of the persons named in the first section of this Act are hereby authorized to call the first meeting of said Corporation by giving notice in one or more newspapers published in the County of Penobscot of the time and place and purpose of such meeting fifteen days at least before time mentioned in such notice.

Directors may choose a Clerk and Treasurer.

First meeting.

Power and duty of Directors.

SECT. 3. *Be it further enacted*, That 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 purpose of locating, constructing and completing said Rail Road, and for the transportation of persons, goods and property of all descriptions and all such power 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, ma-

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 the 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 as shall be prescribed by the by laws of said Corporation, the Directors may order the Treasurer to sell such share or shares at public auction after giving such notice as may be prescribed as aforesaid to the highest bidder, and the same shall be transferred to the purchaser, and such delinquent subscriber or stockholder shall be held accountable to the Corporation for the balance if his share or shares shall sell for less than the assessments due thereon with the interest and cost of sale; and shall be entitled to the overplus if his share or shares shall sell for more than the assessments due with interest and costs of sale; *Provided however*, That no assessments shall be laid upon any shares in said Corporation of a greater amount in the whole than one hundred dollars.

Proviso.

SECT. 4. *Be it further enacted*, That the said Corporation shall have power to make, ordain and establish all necessary by laws and regulations consistent with the Constitution and the laws of this State for their own government, and for the due and orderly conducting of their affairs and the management of their property.

May make by-laws, &c.

SECT. 5. *Be it further enacted*, That a toll be and hereby is granted and established for the sole benefit of said Corporation upon all passengers and property of all descriptions which may be conveyed or transported upon said road at such rates per mile as may be agreed upon and established from time to time by the Directors of said Corporation. The transportation of persons and property,

Toll.

the construction of wheels, the form of cars and carriages, the weights of loads and all other matters and things in relation to the use of said road, shall be in conformity with such rules, regulations and provisions as the Directors shall from time to time prescribe and direct. *Provided*, that after ten years from the completion of said Rail Road whenever the profits arising from tolls or otherwise shall exceed the amount of twelve per centum per annum on the actual cost of said Rail Road, engines cars and other appurtenances necessarily connected therewith, and after deducting all necessary disbursements in conducting its operations, then the Legislature shall from time to time have the right so to reduce such tolls as may have been established, not below the rate of twelve per centum per annum as aforesaid, as may be judged expedient. And to carry this provision into effect it shall be the duty of said Corporation within twelve months after such Rail Road shall have been put in operation, or any section thereof, to make returns to the Governor and Council of the actual cost of said Rail Road or section thereof, and annually thereafter of all the disbursements allowed by the Directors, and the rates of toll by them established, the amount of tolls and other profits received, and the rate of profit or per centum on the cost aforesaid actually realized within the year. And if the Legislature shall not be satisfied with such return, the Legislature may require an examination into the affairs of the Corporation in such manner as they shall direct. And if it shall appear that the affairs of said Corporation have not been economically conducted, and that the profits arising from tolls or otherwise might have exceeded the amount of twelve per centum per annum, or that any wilful evasion of this section has been practised by said Corporation, then the Legislature shall have a right to make such reductions of the charges for disbursements aforesaid, allowed and charged by said Directors, as shall be reasonable, and upon such basis so made as aforesaid, they may reduce the tolls and profits, if they shall judge it expedient so to do, but not below twelve per centum per annum. *And further provided*, that

Subject to control of the Legislature to a certain extent.

Corporation to make return to Governor and Council annually.

Legislature may require an examination into their affairs.

Proviso.

the Legislature may authorize any other Company, or Companies to connect any other Rail Road or Rail Roads with the Rail Road of said Corporation at any points of intersection on the route of said Rail Road. And the Corporation shall receive and transport all persons, goods and property of all descriptions which may be carried and transported to the Rail Road of said Corporation on such other Rail Roads 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 on such passengers goods and other property, as may be received, from such other Rail Roads so connected with said Rail Road as aforesaid, shall not exceed the general rates of freight and toll on said Rail Road received for freight and passengers at any of the depots of said Corporation. *And further provided*, that said Corporation after the completion of its route shall be holden at all times to keep said Rail Road in good and sufficient repair, and shall have a lien on all merchandize and property transported on said Rail Road for the payment of all legal tolls.

Corporation bound to transport persons and goods brought to said road by other rail roads.

Must keep said road in good repair.

SECT. 6. *Be it further enacted*, That the Directors of said Corporation for the time being are hereby authorized to erect toll houses, establish gates, appoint toll gatherers and demand toll on the road aforesaid, when completed, and upon such parts thereof as shall from time to time be completed.

May erect toll-houses and demand toll, &c.

SECT. 7. *Be it further enacted*, That when said Corporation shall take any land or other estate as aforesaid of any infant, person non compos mentis, feme covert, whose husband is under guardianship, the guardian of such infant, or person non compos mentis, and 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 aforesaid and give good and valid releases and discharges therefor.

Guardians may dispose of property in certain cases.

Penalty for injuring said road.

SECT. 8. *Be it further enacted,* That if any person shall willfully and maliciously, or wantonly and contrary to law obstruct the passage of any carriage on said Rail Road, or in any way spoil, injure or destroy said Rail Road, or any part thereof, or any thing belonging thereto, or any material or implements to be employed in the construction or for the use of said Road, he, she, or they, or any person or persons, assisting, aiding, or abetting such trespass, shall forfeit and pay to said Corporation for every such offence, treble such damages as shall be proved before the Justice, Court or Jury, before whom the trial shall be had, to be sued for before any Justice, or in any Court proper to try the same, by the Treasurer of the Corporation, or other officer, whom they may direct, to the use of said Corporation. And such offender or offenders shall be liable to indictment by the Grand Jury of the County, within which such trespass shall have been committed, for any offence, or offences, contrary to the above provisions, and upon conviction thereof before any Court competent to try the same, shall pay a fine not exceeding one hundred dollars, to the use of the State, or may be imprisoned for a term not exceeding one year, at the discretion of the Court before whom such conviction shall be had.

Annual meeting, &c.

SECT. 9. *Be it further enacted,* That the annual meeting of the members of said Corporation shall be holden on the first Monday of May, 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 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.

Road to be so constructed as not to obstruct high-ways.

SECT. 10. *Be it further enacted,* That if the said Rail Road in the course thereof shall cross any private way, the said Corporation shall so construct said Rail Road, as not to obstruct the safe and convenient use of such private way; and if the said Rail Road shall in the course thereof

cross any canal, turnpike, rail road or other highway, the said Rail Road shall be so constructed as not to obstruct the safe and convenient use of such canal, turnpike or other highway; and the said Corporation shall have power to raise or lower such turnpike, highway or private way so that the said Rail Road, if necessary, may conveniently pass under or over the same, and erect such gate or gates thereon as may be necessary for the safety of travellers on said turnpike, rail road, highway or private way.

SECT. 11. *Be it further enacted,* That said Corporation shall be held liable to grade ten miles of said route within one year from the first day of June next, and one half of said route within two years from that date, and the remainder within three years from said first day of June, *and provided* said Corporation shall fail to complete said Rail Road within three years from the first day of June, in the year of our Lord one thousand eight hundred and thirty six, this Act shall be null and void.

Progress and completion of said road.

SECT. 12. *Be it further enacted,* That said Rail Road Corporation shall constantly maintain and keep in good repair all bridges with their abutments and embankments which they may construct, for the purpose of conducting their Rail Road over any canal, turnpike, highway or private way, or for conducting such private way or turnpike over said Rail Road.

Shall keep in good repair all bridges, &c. over roads and canals.

SECT. 13. *Be it further enacted,* That the books of said Corporation shall at all times be open to the inspection of the Governor and Council, and of any Committee duly authorized by the Legislature.

Books at all times to be open to inspection of Governor and Council.

SECT. 14. *Be it further enacted,* That the provisions of an Act concerning Corporations, passed March seventeenth, one thousand eight hundred and thirty one, shall not extend or apply to the Corporation hereby incorporated.

SECT. 15. *Be it further enacted,* That the said Corporation shall at all times when the Post Master General shall require it, be holden to transport the mail of the United States from and to such place or places on said Rail Road

Holden to transport mail, &c.

as required, for a fair and reasonable compensation, and in case the Corporation and the Post Master General shall be unable to agree upon the compensation aforesaid, the Legislature of the State shall fix and determine the same.

Chapter 171.

AN ACT to change the names of certain persons.

Approved March 29, 1836.

Be it enacted by the Senate and House of Representatives, in Legislature assembled, That Alvin Murphy, of Jefferson shall be allowed to take the name of Alvin Piper—that Henry T. Prime and Betsey Prime of Pittston in the County of Kennebec shall be allowed to take the name of Henry T. Franklin and Betsey Franklin,—That Tobias Purinton of Brunswick in the County of Cumberland shall be allowed to take the name of Tobias Purrington—that Mary Hedman of Portlaud in the County of Cumberland shall be allowed to take the name of Mary Blanchard Hedman—that Nemiah Penny Jun. of Hampden in the County of Penobscot shall be allowed to take the name of Nemiah Tenney—that John George Pushard of Dresden in the County of Lincoln together with his wife and children shall be allowed to take the surname of Shaw—That Samuel Gould of Kennebunk port in the County of York shall be allowed to take the name of Samuel H. Gould—That Samuel Obear 3d of Sedgwick in the County of Hancock, shall be allowed to take the name of Samuel Freeman Obear,—That Mary Jane Whitmore of Boothbay in the County of Lincoln shall be allowed to take the name of Mary Elizabeth Newbegin—That Abel Chabin of Bangor in the County of Penobscot shall be allowed to take the name of Abel W. Chabin—That Timothy Darling of Calais in the County of Washington shall be allowed to take the name of Mortimer Timothy Darling—That Elisha Hayward of Sidney in the County of Kennebec, together