

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1853.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
Feb. 26, 1840, and March 16, 1842.

Augusta:
WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1853.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1853.

SECT. 2. The said corporation may purchase and hold real and personal estate, necessary to their operations, to an amount not exceeding at any one time fifty thousand dollars, with full power to manage and dispose of the same. CHAP. 171.
May hold
estate.

SECT. 3. Any two persons named in this act may call the first meeting for the purpose of organizing the corporation, at such time and place as they see fit, by posting up notices in two public places in the city of Augusta, seven days before the time of said meeting, or by giving a shorter notice, if the unanimous consent of said corporators shall be thereto attained. First meeting,
how called.

SECT. 4. Said corporators may make all necessary by-laws for the management of their affairs, not repugnant to the laws of this state. By-laws.

SECT. 5. This act shall be in force from and after its approval by the governor.

[Approved March 30, 1853.]

Chapter 171.

An act to establish the Dexter and Newport Railroad.

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

SECT. 1. Joseph Kelsey, James S. Holmes, Thomas S. Pullen, Ezra S. Clark, Abijah B. Chase, Jacob S. Elliot, Paul M. Fisher, Gilman M. Burleigh, Augustus S. French, Josiah Crosby, Samuel McClellan, Lysander Cutler, William G. Clark, and Stephen Lowell, their associates, successors and assigns, are hereby made and constituted a body politic and corporate by the name of the Dexter and Newport Railroad Company, and by that name may sue and be sued, plead and be impleaded, and 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 invasion thereof or interruption in exercising and performing the same. And the said corporation are hereby authorized and empowered to locate, construct, and finally to 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 at or near the village of Dexter, to a point of junction and connection with Corporators.

Corporate
name.

Rights at law.

Location and
construction,
&c., author-
ized.

--junction, &c.

CHAP. 171.

Transportation of passengers, &c.

Rates of toll in conjunction with other roads, regulation of.

Transportation of cars, &c., regulation of.

Route of road.

Powers, privileges, &c.

May purchase or take land, materials, &c.

the Penobscot and Kennebec Railroad in Newport; and said Dexter and Newport Railroad Company are hereby authorized to connect their railroad with the railroad of the Penobscot and Kennebec Railroad Company at said Newport; and said Penobscot and Kennebec Railroad Company shall be required to receive and transport on their road all persons, goods and property of all descriptions which may be carried or transported on said Dexter and Newport Railroad to said point of connection with said Penobscot and Kennebec Railroad, at rates of toll and freight on such passengers, goods and other property as may be received from said Dexter and Newport Railroad, so connected with said Penobscot and Kennebec Railroad, as shall not exceed their just proportion of the general rates of toll on said latter road received for freight and passengers at any of the depots of said Penobscot and Kennebec Railroad Company; nor shall such rates of toll and freights which said latter company shall be entitled to demand and receive of said Dexter and Newport Railroad Company, exceed the rates when taken in a just proportion which may be accorded by said Penobscot and Kennebec Railroad Company to any other company that may at any time hereafter connect with said Penobscot and Kennebec Railroad Company; and said latter named company shall be under obligation to transport over their road, in connection with their own trains, in any direction desired, the passenger and other cars of said Dexter and Newport Railroad Company, at rates not to exceed those which may be fairly charged under the rules hereinbefore prescribed. Said Dexter and Newport Railroad is to be located and constructed on such route within the limits aforesaid as the directors of said corporation, in the exercise of their best judgment, shall judge most feasible and best calculated to promote the public convenience, and carry into effect the intentions and purposes of this act. And said corporation shall be and hereby is invested with all the powers, privileges and immunities which are or may be necessary to enable them to carry into effect the purposes and objects of this act as herein set forth. And for these purposes said corporation shall have the right to purchase, or to take and hold, so much of the land and other real estate of private persons and corporations as may be necessary for the location, construction and convenient operation of said road; 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, from the lands

so taken; *provided, however*, that said land so taken shall not exceed six rods in width, except where greater width is necessary for the purpose 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 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 the laying out of highways. And the land so taken by said corporation shall be held as lands taken and appropriated for 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; and in case such railroad shall pass through any woodlands or forests, the said company shall have a right to fell or remove any trees standing therein, within four rods from 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 is provided for the recovery of other damages in this act. And furthermore, said corporation shall have all the powers, privileges and immunities, and be subject to all the duties and liabilities, provided and prescribed respecting railroads in chapter eighty-one of the revised statutes, and other general laws of this state affecting railroads, not inconsistent with the express provisions of this charter.

SECT. 2. 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 aforesaid, and give good and valid releases and discharges therefor.

SECT. 3. The capital stock of said corporation shall consist of not less than one thousand nor more than four thousand shares, not exceeding one hundred dollars to each share; and the immediate government and direction of the affairs of said corporation shall be vested in five or seven directors, who shall

CHAP. 171.

Proviso.
Compensation for damages.

Damages, how determined.

Land, how held.

Damages, application for limited.

Right to fell and remove trees.

General powers, privileges, &c.

Lands taken of persons under guardianship, &c., damages, how adjusted.

Capital stock.

Shares.

Government to be vested in

- CHAP. 171.** be chosen by the members of said corporation, in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places; a majority of said directors shall constitute a quorum for the transaction of any business which said board of directors may be competent to transact and perform; they shall elect one of their number to be president of the board, who shall also be president of the corporation; they shall have authority to choose a clerk, who shall be sworn to the faithful discharge of his duty, and also a treasurer, who shall be sworn and give bonds to the corporation, with sureties to the satisfaction of the directors, in a sum not less than fifteen thousand dollars, for the faithful discharge of his trust. And for the purpose of receiving subscriptions to said stock, books shall be opened under the direction of the persons named in the first section of this act, or the major part of them, at such time as they may determine, in the towns of Dexter, Newport, Dover and Waterville, and the cities of Bangor and Belfast, in this state, and elsewhere, as they shall appoint, to remain open for ten successive days, of which time and places of subscription, public notice shall be given in some newspaper, designated by said persons or a majority of them named in the first section of this act, printed in Belfast, Bangor and Dover, twenty days at least previous to the opening of said subscription; and in case the amount subscribed shall exceed four thousand shares, the same shall be distributed among all the subscribers, according to such regulations as the persons having charge of the opening of the subscription books shall prescribe before the opening of said books. 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 by giving notice of the time, place and purposes of said meeting, in one or more newspapers published in the town and cities last above named, if any shall be published therein, at least twenty days before the time mentioned in such notice.
- a board of directors.**
- President.**
- Clerk.**
- Treasurer.**
- Books for subscription, where opened, &c.**
- Notice to be given.**
- Excess of subscription, how distributed.**
- First meeting.**
- By-laws, &c.**
- President and directors, powers and duties of.**
- SECT. 4.** 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.
- SECT. 5.** 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

railroad, 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 within or without the state, land, materials, engines and cars, and other necessary things, in the name of the corporation for the use of said railroad, 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 the 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 assessment shall be laid upon any shares in said corporation of a greater amount in the whole than one hundred dollars.

Land, cars, &c.

Assessments, how made, &c.

Notice, how given.

Assessments, neglect to pay, proceedings in case of.

Shares of delinquent subscribers, how disposed of.

Proviso.

SECT. 6. A toll is hereby granted and established for the sole benefit of said corporation, upon all passengers and property of all descriptions, which may be conveyed or transported by them upon said road, at such rate as may be agreed upon and established from time to time by the directors of said corporation. The transportation of persons and property, the construction of wheels, the forms of cars and carriages, the weights of loads, and all other matters and things in relation to said road shall be in conformity with such rules, regulations and provisions as the directors shall from time to time prescribe and direct.

Toll.

Transportation, construction, &c.

SECT. 7. The legislature may authorize any other company or companies to connect any other railroad or railroads, with the railroad of said corporation. And said corporation shall

Connection with other roads, regulation of, &c.

CHAP. 171. 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 toll and freight on such passengers and goods and other property as may be received from such other railroads so connected with said railroad 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.

Private ways,
crossing of.

SECT. 8. If the said railroad, in the course thereof, shall cross any private way, the said corporation shall so construct said railroad as not to obstruct the safe and convenient use of such private way; and if the said railroad shall, in the course thereof, cross any canal, turnpike, railroad or other highway, the said railroad 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 railroad, 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 travelers on said turnpike, railroad, highway or private way.

Canals, turn-
pikes, &c.,
crossing of.

SECT. 9. Said railroad corporation shall constantly maintain, in good repair, all bridges with their abutments and embankments, which they may construct for the purpose of conducting their railroad over any canal, turnpike, highway or private way, or for conducting such highway, private way or turnpike over said railroad.

Bridges,
abutments, &c.

Navigable
waters, &c.,
crossing of.

SECT. 10. If said railroad shall, in the course thereof, cross any navigable rivers or streams, the said corporation are hereby authorized and empowered to erect for their sole and exclusive use on their said railroad, a bridge across each of said rivers or streams; *provided* said bridge or bridges shall be so constructed as not unnecessarily to obstruct or impede the navigation of said waters.

Fences.

SECT. 11. 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; and for neglect or failure to erect and maintain such fences said corporation shall be liable to be indicted in the supreme judicial court for the county where such

—liable to
indictment for
neglect to
build.

CHAP. 171.

fence shall be insufficient, and to be fined in such sum as shall be adjudged necessary to repair the same; and such fine shall be expended for the erection or repair of said fence, under the direction of an agent appointed by said court, as in case of fines imposed upon towns for deficiency of highways.

SECT. 12. The said corporation shall at all times, when the postmaster general shall require it, be holden to transport the mail of the United States from and to such place or places on said road as 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 the said corporation, after they shall commence the receiving of tolls, shall be bound at all times to have said railroad in good repair, and a sufficient number of suitable engines, carriages and vehicles for the transportation of persons and articles, and be obliged to receive at all proper times and places, and convey the same when the appropriate tolls therefor shall be paid or tendered, and a lien is hereby created on all articles transported for said tolls. And the said corporation, fulfilling on its part all and singular the several obligations and duties by this section imposed and enjoined upon it, shall not be held or bound to allow any engine, locomotive, cars, carriages or other vehicle for the transportation of persons or merchandize, to pass over said railroad, other than its own, furnished and provided for that purpose, as herein enjoined and required; *provided, however*, that said corporation shall be under obligations to transport over said road, in connection with their own trains, the passenger and other cars of any other incorporated company that may hereafter construct a railroad connecting with that hereby authorized, such other company being subject to all the provisions of the sixth and seventh sections of this act as to rates of toll, and all other particulars enumerated in said sections.

SECT. 13. If any person shall willfully and maliciously, or wantonly and contrary to law, obstruct the passage of any carriage on said railroad, or in any way spoil, injure or destroy said railroad 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 offense, 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

Mail, transportation of.

In case of disagreement, how determined.

Obliged to keep road in repair, &c.

Obliged to transport passengers, &c., after payment of tolls.
Lien for payment of toll.

Cars and engines of other roads, &c.

Proviso.

Malicious mischief, trespass, &c.

Forfeiture, punishment, &c.

CHAP. 171.

Offenders
liable to
indictment,
&c.

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 trespass shall have been committed, for any offense or offenses contrary to the above provisions; and upon conviction thereof before any court competent to try the same, shall pay a fine not exceeding five hundred dollars, to the use of the state, or may be imprisoned for a term not exceeding five years, at the discretion of the court before whom such conviction may be had.

Accounts of
corporation,
how kept.

SECT. 14. Said corporation shall keep, in a book for that purpose, a regular account of all their disbursements, expenditures and receipts; and the books of said corporation shall be open at all times to the inspection of the governor and council, and of any committee duly authorized by the legislature; and at the expiration of every year, the treasurer of said corporation shall make an exhibit, under oath, to the legislature, of the net profits derived from the income of said railroad.

Annual
exhibit.

Property, when
taxable, &c.

SECT. 15. All real estate purchased by said corporation for the use of the same, under the fifth section of this act, shall be taxable to the said corporation by the several towns, cities and plantations in which said lands may lie, in the same manner as lands owned by private persons, and shall in the valuation list be estimated the same as other real estate of the same quality, in such town, city or plantation, and not otherwise; and the shares owned by the respective stockholders shall be deemed personal estate and be taxable as such to the owners thereof, in the places where they reside and have their home. And whenever the net income of said corporation shall have amounted to ten per centum per annum upon the cost of the road and its appendages, and incidental expenses, the directors shall make a special report of the fact to the legislature, from and after which time one moiety, or such other portion as the legislature may from time to time determine, of the net income from said railroad accruing thereafter over and above ten per centum per annum first to be paid to the stockholders, shall annually be paid over by the treasurer of said corporation, as a tax into 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.

Net income
over 10 per
cent. per
annum, how
disposed of,
&c.

SECT. 16. The annual meeting of the members of said corporation shall be holden on the second Monday in June, or such other days 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. 17. The legislature shall at all times have the right to inquire 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, but not to impose any other or further duties, liabilities or obligations.

SECT. 18. 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 counties 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 fifty-six, or if the said corporation shall fail to complete said railroad on or before the thirty-first day of December, in the year of our Lord one thousand eight hundred and sixty; in either of the above mentioned cases this act shall be null and void.

SECT. 19. In case a railroad shall be chartered by the present or any succeeding legislature from Belfast to Moosehead Lake, or to the southern terminus of the railroad hereby chartered, and the same shall hereafter be built, the company building said road shall have the right to purchase the Newport and Dexter Railroad by paying therefor all the costs of location, construction, expenses of grounds, depots, land damages, equipment, furnishing and all other expenses attending the building and equipment thereof, with legal interest on the same from the time of each and every portion of such expenditure, first deducting from the same the net income of said road, if any, accruing prior to the purchase; or said Belfast and Moosehead Lake Corporation may, if they choose, build said Newport and

CHAP. 171.

Annual meeting.

Directors, when chosen. Votes.

Special meetings.

Legislature, right to investigate the doings of said corporation.

Time for organizing, &c., limited.

Right to sell and dispose of road.

CHAP. 172. Dexter Railroad themselves; *provided* they build and complete the same before the Penobscot and Kennebec Railroad shall be built either from Newport to Bangor or from Newport to Waterville, and in case the Belfast and Moosehead Lake Corporation shall build said Newport and Dexter road as aforesaid, then in that event the charter for said Newport and Dexter road shall be void, and no road shall be built by virtue of the same:

Charter, when void.

Proviso.

[Approved March 30, 1853.]

Chapter 172.

An act to legalize certain acts of the town of Cape Elizabeth in relation to the purchase of Portland Bridge.

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

Certain acts made valid.

SECT. 1. The acts and doings of the town of Cape Elizabeth, at a town meeting held on the fifth day of February, eighteen hundred and fifty-three, in accepting the report of Thomas E. Knight, Clement Jordan, Reuben Higgins, Thomas Hunneyford, and Scott Dyer, acting as a committee for said town for purchasing that part of Portland Bridge lying within the limits of Cape Elizabeth, with the view of having the same conveyed to the county of Cumberland and made a free bridge, and all other acts and doings of said town relating to the purchase of said part of said bridge be and the same hereby are declared and made legal and valid; and that the bonds or town scrip issued by the selectmen of said town in payment for said part of the aforesaid bridge to the amount of five thousand dollars, bearing date June sixth, eighteen hundred and fifty-one, and payable one half in six years and one half in ten years, with interest annually, be and the same hereby are declared legal and valid evidences of indebtedment against said town. And said town shall have power to make assessments on the inhabitants thereof to pay the interest accruing on said bonds or scrips as the same becomes due, and also to pay the principal thereof at maturity, or sooner if advisable.

Certain bonds, &c., made valid.

Assessments authorized.

[Approved March 30, 1853.]