

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115

OF THE

FORTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1870.

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1870.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1870.

CHAP. 394.

Chapter 394.

An act to make valid the acts of the parish of the High Street Church in the city of Portland.

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

Acts of parish since Feb. 17, '60, made valid.

SECT. 1. All the acts of the parish of the High Street Church in the city of Portland, and all the acts of the officers of the said parish done in their official capacity by order of the said parish, or in accordance with any vote of the said parish since February seventeen, eighteen hundred and sixty-nine, are hereby made valid and in all respects binding the same as if they had been done in a legal manner.

All pew owners declared to be members of parish.

SECT. 2. All persons who are pew owners in the house of worship now occupied by the said High Street Church, are hereby declared to be members of the said parish; and all rights to acquire pew property in the said house of worship by virtue of any pew property held in the former house of worship occupied by said church, shall cease on and after the first day of April, eighteen hundred and seventy.

SECT. 3. This act shall take effect when approved.

Approved March 1, 1870.

Chapter 395.

An act to incorporate the Penobscot and Union River Railroad Company.

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

Corporators.

SECT. 1. Seth Tisdale, A. F. Drinkwater, N. K. Sawyer, Monroe Young, D. H. Eppes, John D. Hopkins, H. M. Hall, Barlow Hall junior, Sewall B. Swazey, Ambrose White, J. L. Buck, N. T. Hill, Alonzo Colby, S. P. Hall, T. C. Woodman, Edward Swazey, George L. Bradley, James Emery, A. P. Emerson, John Buck, Isaac Partridge, John A. Buck, Charles Newcomb, Micajah Currier, Solomon Phipps, M. F. Eldridge, W. E. Covell, Thomas B. George, Daniel Sargent second, R. K. Cushing, George O. Goodwin, A. S. Meservey, John Tibbetts, A. C. Wilson, Jesse Hinks, D. B. Doane, J. S. Paine, Calvin Kent, Alpheus Robinson, A. T. Parker, J. W. Palmer, Eben Blunt, John L. Cutler, Davis R. Stockwell, E. H. Rollins, J. O. B. Darling, A. D. Manson, Samuel Wasson, Philip J. Milliken, Samuel Merrill, Elisha Bowden, Isaac B. Goodwin, Joseph T. Hinkley, their associates, successors and assigns, are hereby made and constituted a body politic and

Corporate name.

corporate by the name of the Penobscot and Union River 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 city of Bangor, so as to connect with any railroad in said city, and thence to some point above the Bangor and Brewer toll bridge, crossing the Penobscot river to Brewer, through Orrington to Bucksport village, and thence by way of Orland, Penobscot and Surry, to some point in Ellsworth, in the county of Hancock; 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 necessary branches; 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 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 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 provided for the recovery of other damages in this act.

Rights and privileges.

Authorized to locate and construct railroad, with one or more sets of rails or tracks, &c.

Route.

May take land and real estate necessary for location.

Proviso.

Damages, how ascertained.

Application for damages to be made in three years.

May remove trees within four rods of road, if liable to fall and obstruct same.

CHAP. 395.

Capital stock and shares.

Directors, how chosen, &c.
Tenure of office.

Officers and their bonds.

Subscription books, where and by whom opened.

First meeting, how called.

Guardian may settle damages for certain persons.

President and directors, powers of.

SECT. 2. The capital stock of said corporation shall consist of not less than one thousand nor more than twelve thousand shares of one hundred dollars each, and the immediate government and direction of the affairs of said corporation shall be vested in seven 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 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 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, in the cities of Bangor and Ellsworth, and in the town of Bucksport, and elsewhere as they shall appoint, to remain open for such a time as they shall direct, of which time and place of subscription public notice shall be given in a newspaper printed in the counties of Penobscot and 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 the newspapers published as before named, of the time and place and the purposes of such meeting, at least fourteen days before the time mentioned in such notice.

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 reasons 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 branches necessary, 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 assessment 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 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 costs of sale; and shall be entitled to the overplus, if his share or shares 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.

Assessments,
notice of.
Neglect to pay,
shares may be
sold by auction.

Overplus, how
disposed of.

Proviso.

SECT. 5. 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 rates 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 form of cars and carriages, the rights of roads, and all 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 granted

Transportation of
property, con-
struction of
wheels, form of
cars, &c.

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. 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.

Connections with
other companies,
legislature may
authorize.

Rates of toll.

CHAP. 395.

Private ways and highways, not to be obstructed.

SECT. 7. If 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 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.

Fences.

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.

U. S. mail, transportation of.

SECT. 9. 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 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 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 transportation of persons and articles, and be obliged to receive at all proper times and places, and carry 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 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 merchandise, 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 obligation to transport over said road 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 fifth and sixth sections of this act, as to rates of toll and all other particulars enumerated in said sections.

Compensation in case of disagreement, how determined.

Facilities for transportation of articles, &c.

Lien.

Duties and obligations.

Proviso.

Malicious injury to corporate property.

SECT. 10. If any person shall wilfully and maliciously, or wantonly and contrary to law, obstruct the passage of any car-

riages on such railroad, or in any way spoil, injure or destroy said railroad or any part thereof, or anything belonging thereto, or any materials or implements to be employed in the construction of, 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 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 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.

Penalties.

SECT. 11. 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 at all times be open 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 profits derived from the income of said railroad.

Disbursements and expenditures, account of.

SECT. 12. All real estate purchased by said corporation for the use of the same under the fourth section of this act, shall be taxable to said corporation by the several cities, towns and plantations in which said land lies, in the same manner as lands owned by private persons, and shall in the valuation list be estimated the same as other adjacent lands of the same quality in such city, town 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 homes. 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 of said 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 there-

Tax on corporate property.

Shares deemed personal estate, and taxable as such.

Income, and report to legislature.

State may maintain an action to

CHAP. 395.

recover excess
over ten per cent.

for, 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.

Annual meetings.

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.

Directors, choice
of.

Special meetings
may be called by
directors.

Legislature may
inquire into
doings of corpora-
tion.

SECT. 14. 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.

Organization,
location, &c.,
when to be made.

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 first day of March, in the year of our Lord one thousand eight hundred and seventy-three, or if the said corporation shall fail to complete at least eighteen miles of said railroad on or before the first day of March, in the year of our Lord one thousand eight hundred and seventy-six, in either of the above mentioned cases, this act shall be null and void.

Authorized to
connect with
other roads.

SECT. 16. The corporation is hereby invested with power to make connections with any other road or roads, and on such terms as the members may deem expedient and proper; and it is hereby authorized to lease the road, either before or after it shall have been completed, on such terms and for such time as the members at a meeting regularly called for that purpose shall determine.

Other railroad
companies may
connect with P. &
U. Riv. R. R. Co.

SECT. 17. Other railroad companies now incorporated or hereafter to be incorporated in this state, shall have the right to connect their railroads with the railroad of the Penobscot and Union River Railroad Company, in any town along the line of its road; and no discrimination in the rates of freight or passengers shall be made by said company, nor by any party who may operate its line of railway or any part thereof, between railroads having the right to connect with its railroad as aforesaid; but all passengers and all freight coming from or going to any other road

Rates.

Passengers and
freight.

having such right to connect, shall be transported promptly and on terms alike favorable by said company over its own road, or by any party operating the same, and on terms as favorable as the like service is or shall be performed for transportation commencing and terminating on the line of railway of said company.

CHAP. 396.

SECT. 18. This act shall take effect when approved.

Approved March 1, 1870.

Chapter 396.

An act to amend an act entitled "an act to prevent the destruction of alewives in Denny's river," approved February twenty-second, eighteen hundred and sixty-five.

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

SECT. 1. The second section of said act, is hereby amended, by inserting between the word "week" and the word "from," in the fourth line, the words, 'in all that portion of the river below the fishway at Lincoln's mills, in the town of Dennyville; and between the hours of sunset on Thursday and sunset on Saturday of each week, in that portion of the river between said fishway and the town of Meddybemps; and between the hours of sunset on Monday and sunset on Friday of each week, in the town of Meddybemps,' so that said section, as amended, shall read as follows:

'Sect. 2. The use of any means or implements for the taking or destroying of alewives, or obstructing their passage in said river, except between the hours of sunrise on Monday and sunset the following Thursday of each week, in all that portion of the river below the fishway at Lincoln's mills, in the town of Dennyville; and between the hours of sunset on Thursday and sunset on Saturday of each week, in that portion of the river between said fishway and the town of Meddybemps; and between the hours of sunset on Monday and sunset on Friday of each week, in the town of Meddybemps, from the first day of January till the first day of August, every year, is hereby prohibited.'

SECT. 2. This act shall take effect when approved.

Approved March 1, 1870.