

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth
Legislature

1909

Chapter 381.

An Act prohibiting the building of Smelt Traps in the waters of Harrington River, Washington County.

Be it enacted by the People of the State of Maine, as follows:

Section 1. That the building of smelt traps in the waters of Harrington river, Washington county, or fishing in any other way in said river for smelts except by using the regular seine or smelt net without wings is unlawful. Smelt traps prohibited.

Section 2. Whoever violates any of the provisions of this act shall be subject to a penalty of not less than twenty dollars nor more than forty dollars and costs for each offense. Penalty.

Approved April 1, 1909.

Chapter 382.

An Act to incorporate the Scarboro and Cape Elizabeth Railway Company.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Samuel D. Plummer of Portland, William F. Spear of South Portland, Harry S. Jordan of Cape Elizabeth, John A. Snow of Scarboro, Otis S. Trafton of Westbrook and Walter J. Gilpatric of Saco, Maine, their associates, successors and assigns, are hereby constituted a corporation by the name of Scarboro and Cape Elizabeth Railway Company, with authority to construct, maintain and operate by electricity or other power a street railway with convenient single or double tracks, side tracks and turnouts and switches, with all necessary or convenient lines of poles, wires, appliances, appurtenances and conduits, commencing at South Portland Heights in the city of South Portland and extending in and through said South Portland and towns of Cape Elizabeth, Scarboro, Gorham and city of Westbrook, in the county of Cumberland, state of Maine, upon streets, highways and property to be fixed and determined by the municipal officers in said respective towns after the right of way has been granted by said respective towns and assented to in writing by said corporation. Said corporation shall, before commencing construction of its road, present to the railroad commissioners a petition for approval of location, defining its courses, distances and boundaries, accompanied with a map of the proposed route on an appropriate scale with the written approval of the proposed route and location as to streets, Corporators.

—corporate name.
—authorized to construct, maintain and operate a street railway.

—route.

—proceedings before commencing construction of road.

roads or ways of the municipal officers of the cities and towns in which said railroad is to be constructed in whole or in part and with a report and estimate prepared by a skillful engineer. If the municipal officers upon written application therefor neglect for thirty days to approve a route and location as to streets, roads or ways, or if they refuse to approve such a route and location, or if such route and location approved by them is not accepted by the corporation, in either case, said corporation may appeal to the next term of the supreme judicial court to be held in any county where any part of said railroad is located more than thirty days after the expiration of said thirty days or from the date of such refusal, or from the approval of a location that is not accepted by the corporation, or otherwise, as the case may be, excluding the day of the commencement of the session of said court. The appellant shall serve written notice of such appeal upon said municipal officers fourteen days at least before the session of said court and shall at the first term file a complaint setting forth substantially the facts of the case. If the appeal is then entered, and not afterwards, the court shall appoint a committee of three disinterested persons, who shall be sworn, and if one of them dies, declines or becomes interested the court may appoint some suitable person in his place. They shall give such notice as the court has ordered, view the proposed route or routes and location or locations, and make their report at the next term of the court after their appointment, defining therein the route and location as to streets, roads or ways as determined by them, which, after acceptance and entry of judgment thereon, shall forthwith be certified to the railroad commissioners and received by them in lieu of the approval of the municipal officers. Costs may be taxed and allowed as the court may order. A failure to appeal shall not bar the corporation from making a new application to the municipal officers. Said commissioners shall upon presentation of such petition appoint a day for hearing thereon, and the petitioner shall give such notice thereof as said commissioners deem reasonable and proper in order that all persons interested may have an opportunity to appear and object thereto. At such hearing any party interested may appear in person or by counsel. The board of railroad commissioners after hearing the petition, shall, if they approve such location subject to the provisions of section twelve of chapter fifty-three of the revised statutes of Maine, then determine whether public convenience requires the construction of such road and make a certificate of such determination in writing, which certificate shall be filed

with the clerk within thirty days after such hearing. Within five days after the filing of such certificate with him, the clerk shall notify all who have become parties of record as aforesaid, or their counsel, of such determination and decision by sending to each party or their counsel, by mail, a certified copy of such certificate so filed with him. If the board of railroad commissioners approve such location and find that public convenience requires the construction of said road the corporation may proceed with the construction of said road, provided, that it first files with the clerk of the county commissioners for the county in which said street railroad is to be located a copy of the location and plan aforesaid and another copy of the same with the board of railroad commissioners. Any extension of, addition to, or variation from the location may be made in accordance with and subject to the foregoing provisions.

Section 2. Said corporation may also maintain and operate said railway upon and over any lands where land damages have been mutually settled by the corporation and owners thereof.

May maintain railway over lands where damages have been settled.
May fix rates of traffic.

Section 3. Said corporation shall have power from time to time to fix such rates or compensation for transporting persons or property as it may think expedient, and generally shall have all the powers, and subject to all the limitations of corporations as set forth in chapter forty-seven of the revised statutes of Maine.

Section 4. Said corporation may make contracts with other persons or corporations to supply it with electrical power for all purposes for which it is incorporated. It is also authorized and empowered to make, generate, purchase, sell, distribute and supply electricity for all purposes and to construct lines with all necessary erections and fixtures therefor and to hold property, real and personal, necessary and proper for such purposes, as provided and regulated by chapter fifty-five of the revised statutes.

May contract for supply of electric power.
--may generate and sell electricity.
--and hold real and personal property.

Section 5. The capital stock of the corporation shall not exceed four hundred thousand dollars, divided into shares of one hundred dollars each.

Capital stock.

Section 6. Said corporation is hereby authorized to issue bonds in such an amount and on such terms as may from time to time be determined in aid of the purposes specified in this act, and to secure the same by a mortgage of its franchise and property.

May issue bonds and mortgage property.

Section 7. Said corporation may change the location of said railway, by first obtaining the written consent of the municipal officers of said towns, and make additional locations, sub-

Location of railway may be changed on consent of municipal officers.

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—proviso.

ject to the foregoing provisions and conditions; provided, that the location of any bridge across tide waters where vessels can navigate shall not be changed without the consent of the county commissioners.

Town authorities may enter on streets occupied by said railway.

Section 8. Nothing in this act shall be construed to prevent the proper authorities of said towns from entering upon and temporarily taking up the soil in any street, town or county road occupied by said railway, for the purpose for which they may now lawfully take up the same.

May sell or lease property.

—or combine to form connecting line.

Section 9. Such corporation is hereby authorized to lease or sell all of its property and franchises on such terms as it may determine, also to consolidate with or to acquire by lease, purchase or otherwise, the lines, property and franchises of any other street railway, whose lines as constructed or chartered would form connecting or continuous lines with the line of this company, and in such case this corporation shall be entitled to all the privileges, and be subject to all appropriate conditions or limitations contained in the charter thus united with or acquired. Whenever any person or corporation shall be lawfully operating any street railway to any point to which this corporation's tracks extend, this corporation may enter upon, connect with and use the same on such terms and in such manner as may be agreed upon between the parties.

May suspend running of cars when road is blocked with snow, etc.

Section 10. Said corporation shall not be required to run cars upon its line when the line of the road is blocked with snow or ice, or when the convenience or wants of the public do not demand it. And said corporation is permitted to use other vehicles instead of rail cars during such time as the tracks may be blocked, or when the running of cars is suspended as aforesaid.

May use existing poles, etc., for supporting wires.

Section 11. Whenever it is practicable to use existing poles, of any electric light, telephone or telegraph companies, or any tree or structure of any kind, for any of the wires of said corporation and the owners thereof consent to the free use of the same, or for a price satisfactory to the parties, said corporation shall have the right to use the same; and the decisions as to the practicability of such use shall be left to three persons skilled in the science of electricity, one chosen by said corporation, one by the municipal officers, and the third by the two so chosen; the decision of the majority of said board shall be final and the expense of said tribunal shall be borne by said corporation. In the erection and maintenance of its poles, posts and wires, said corporation shall be subject to the general laws of the state, regulating the erection of posts and lines, for the purposes of electricity.

Section 12. Said corporation shall be and is hereby authorized and empowered to purchase or take and hold as for public uses for the location, construction and convenient use of its railroad any land outside of the limits of streets, roads or ways, and all materials in and upon the same notwithstanding that it may be practicable to locate said railroad in such streets, roads or ways, provided that the procedure in taking such land and materials or limitations or manner of determining and paying damages shall be the same as provided by revised statute, chapter fifty-one, in the case of lands taken for steam railroads.

May purchase or take land outside of street limits.

Section 13. Said corporation shall be and is further authorized and empowered to acquire by purchase real or personal estate, for any lawful purpose and to hold, occupy, improve, lease, sell and convey the same and may pay for the same in stock of the corporation at the par value thereof.

May acquire real or personal estate.

Section 14. Said corporation is hereby authorized and empowered to cross any public bridges within said cities of South Portland and Westbrook and towns of Cape Elizabeth, Gorham and Scarboro already erected, but the authority determining whether such crossing shall be permitted shall rest with the municipal officers of said cities or towns aforesaid liable for the repair of such bridges respectively, who shall impose such conditions and such terms as they may deem expedient. In case any county is liable for the repair of the bridge, the county commissioners of such county shall have authority in the premises.

May cross public bridges under authority of municipal officers.

Section 15. The said company is empowered to maintain bridges across tide waters, lakes, ponds, and navigable rivers, and streams which its railroad may cross, provided that they shall be so constructed as not to unnecessarily obstruct the navigation of such waters.

May cross tide waters, lakes, ponds, etc.

—shall not delay navigation.

Section 16. The first meeting shall be called by one or more of the incorporators by giving notice thereof stating the time, place and purpose of the meeting to each incorporator in writing, or by publishing in some newspaper printed in the county of Cumberland, at least fourteen days prior to the time appointed therefor.

First meeting, how called.