

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1846.



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1847.

TWENTY-SIXTH LEGISLATURE.

No. 13.

HOUSE.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
FORTY-SIX.

AN ACT to incorporate the Georges Canal Company.

*Be it enacted by the Senate and House of Represent-
atives in Legislature assembled, as follows :*

SECTION 1. John Miller, Atwood Levensaler, Ben-
jamin Carr, John O'Brien, Rufus C. Counce, Lewis
Bachelder, Francis Keating, William Keating, Samuel
Atkinson, John C. Knowlton, Gideon Richards, and
Daniel McCurdy, their associates, successors, and as-
signs, are hereby made and constituted a body politic
and corporate by the name of the Georges Canal
Company ; with all the powers and privileges incident
to similar corporations so far as may be necessary
to carry into effect all the purposes of this act ; to have
a common seal and to change the same ; and to make
any by-laws for the management of their affairs not

15 repugnant to the laws of this State. And the said
16 corporation are hereby authorized and empowered to
17 survey, locate, construct and finally complete, alter
18 and keep in repair, such canals, locks, flood gates,
19 docks, sluices, embankments, basins, piers, dams,
20 wharves and other works, as may be necessary or
21 convenient for the purpose of rendering the Gorges
22 river, and the ponds through which it runs, or with
23 which it is connected, navigable for boats from the tide
24 waters below the village in the town of Warren, to
25 Stevens' pond in the town of Liberty, including
26 the waters of Quantebacook pond in the town of
27 Searsmont and the stream connecting the same with
28 Georges river; and they shall have power to use and
29 employ as much of the water of said river and ponds
30 or of the streams which may be connected therewith,
31 as may be necessary or convenient for the use of said
32 locks and canals, and also to take and use such land
33 along the course of said river, ponds, locks and ca-
34 nals as shall be necessary for the purposes hereinafter
35 expressed, acquiring the same title thereto as is ac-
36 quired by the public to lands appropriated for public
37 highways, paying a just compensation therefor, and
38 also for all damages caused to any lands by means of
39 flowing occasioned by any of the said canals, locks,

40 dams or other works erected or made by said company,
41 as hereinafter provided.

SEC. 2. When the said corporation cannot agree
2 with any other corporation or individual over or
3 through whose lands any of the aforesaid works may
4 be constructed or which may be damaged by flowing
5 occasioned by any of said dams, canals, locks or other
6 works, then in that case, the damages shall be esti-
7 mated by three disinterested arbiters to be agreed up-
8 on by the parties; or if they cannot agree upon such
9 arbiters, then in that case the district court for the
10 county in which any of such lands lie, upon the ap-
11 plication of either party, and on due notice to the
12 adverse party, shall cause the damages to be ascer-
13 tained by a committee of three disinterested persons
14 to be appointed by said court, whose duty shall be
15 to view the premises, estimate the damages, and make
16 report thereof to said court; and if the same be not
17 objected to, it may be approved, and shall be final as
18 to the matter inquired of by said committee. But
19 if either party is dissatisfied with such report and
20 desires that the damages may be ascertained by
21 the verdict of a jury, said court may on such request
22 submit the question of damages and any other matter
23 of fact which may be raised by the pleadings or brief

24 statements of the parties, to a jury, to be empaneled
25 to try the cause, whose verdict shall be final on all such
26 matters of fact submitted to them ; and on such trial
27 the report of the committee shall be *prima facie* evi-
28 dence of the amount of damages, but may be im-
29 peached by other evidence. And the notice to the
30 adverse party herein required shall be by causing him
31 to be served with an attested copy of such application,
32 fourteen days at least prior to the sitting of the court
33 at which such committee is to be moved for ; and
34 such application may be filed in vacation in the clerk's
35 office of said court, whose duty shall be to issue an
36 order of notice thereon returnable to the next suc-
37 ceeding term thereof.

SEC. 3. The said corporation may tender, either be-
2 fore or after such application to the court, a reasonable
3 compensation for damages, or tender a default there-
4 for ; and if the final determination shall not exceed
5 the amount so tendered or named in such offer, all
6 costs arising, after such tender or offer, shall not bar
7 the party making it from showing that a less amount
- 8 or no damages at all have arisen or may arise to the
9 party making claim thereto. And the said court
10 shall have power to award execution for the amount
11 of damages when ascertained as aforesaid, and also

12 for costs to the party entitled thereto ; *provided also*,
13 that if the party objecting to the report of the com-
14 mittee shall not succeed in obtaining a verdict more
15 favorable to him, he shall pay the costs of such trial
16 to the adverse party.

SEC. 4. If any person or persons shall willfully and
2 maliciously take up, remove or injure any part of said
3 canal, dams, locks, sluices, or other works or append-
4 ages thereof, or divert the water from said canal or
5 locks or the streams supplying the same, such person
6 or persons for every such offense shall forfeit and pay
7 to said corporation treble damages, to be sued for in
8 a special action of the case and recovered in any
9 court of competent jurisdiction ; and shall be further
10 liable to indictment for such offense, and on convic-
11 tion thereof before the supreme judicial court, shall
12 be sentenced to fine or imprisonment at the discretion
13 of the court.

SEC. 5. A toll is hereby granted to said corporation
2 according to the rates following, viz : through all the
3 locks and canals which may be necessarily constructed
4 for the purposes heretofore expressed between the
5 head of the Seven Tree pond, in Union, and the
6 head of the tide in Warren, for all plank, boards,
7 joists, or other sawed stuff, in rafts or otherwise, forty

8 cents for every thousand feet, board measure. For
9 clapboards and staves per thousand, forty cents. For
10 shingles per thousand, twenty cents. For hard wood
11 and bark per cord, thirty cents. For spruce, hemlock,
12 and other soft wood, twenty cents per cord. For all
13 timber and masts, thirty cents per ton. For all other
14 lumber, in proportion to the above rates. For all
15 kinds of goods, wares or merchandise in boats or on
16 rafts, fifty cents per ton. For lime casks or other bar-
17 rels, two cents each. For lime, eight cents per cask.
18 For live stock, to wit: for cattle, twenty cents per
19 head; for sheep, calves or hogs, six cents each. For
20 all passengers in freight boats or passage boats, six
21 cents each. For all boats or rafts, twenty cents in
22 addition to the above. Which toll shall commence
23 and become payable when the said river shall have
24 been made navigable for boats from Seven Tree pond
25 in Union to the head of the tide in Warren. And
26 the said corporation shall have a lien upon the same
27 articles, and shall have the power to detain the same
28 for the toll aforesaid, until the same shall be paid;
29 and at the expiration of ten days from the time said
30 toll shall become due, may raise the same by public
31 or private sale of so much of said articles as will pay
32 the amount due for said toll, and the expenses for

33 collecting the same, or the corporation may sue for
34 and recover the same by an action of debt in any
35 court proper to try the same. And said corporation
36 may by their directors, establish and fix the rates of
37 toll for transportation on said canal and through said
38 locks which shall be constructed above said Seven
39 Tree pond and above said town of Union, in accord-
40 ance with the above rates and not to exceed the same
41 rate for the same number of locks ; which when so
42 established shall be recoverable in the same manner
43 as herein provided. And they may also by their di-
44 rectors establish from time to time a less toll than is
45 herein provided, on any article or articles, and appor-
46 tion the toll among the several locks or sections of
47 said canal or waters ; and also establish a proportional
48 toll on every article not herein enumerated.

SEC. 6. If said corporation shall not make and
2 complete said canal, locks and dams, so that the said
3 waters shall be navigable for boats from said Seven
4 Tree pond to the head of the tide in Warren, within
5 three years from the passage of this act, then this act
6 shall be void.

SEC. 7. Said corporation may build or purchase
2 and hold or sell such boats and rafts as they judge
3 best—to be propelled by steam or other power, for

4 the purpose of navigating said ponds and river, and
5 of conveying goods, merchandise and other property
6 and passengers in the same ; and for performing such
7 services, they shall have the right to demand and re-
8 ceive such sums as may have been agreed on by the
9 parties, or as may be just and reasonable, and may
10 establish such wharves, depots, and warehouses as
11 may be necessary for the convenient management of
12 their business aforesaid.

SEC. 8. The capital stock of said corporation shall
2 consist of not less than fifty thousand nor more than
3 one hundred thousand dollars, to be divided into shares
4 of fifty dollars each. And the immediate government
5 and direction of the affairs of said corporation shall
6 be vested in five, seven, nine or eleven directors,
7 who shall be chosen by the members of said corpora-
8 tion in the manner hereinafter provided, and shall hold
9 their offices until others shall have been duly elected
10 and qualified to take their places, a majority of whom
11 shall form a quorum for the transaction of business ;
12 and they shall elect one of their number to be presi-
13 dent of the board, who shall also be the president of
14 the corporation ; and said stockholders shall have au-
15 thority to choose a clerk, who shall be sworn to the
16 faithful discharge of his duty ; and also a treasurer

17 who shall give bonds to the corporation, with sureties,
18 to the satisfaction of the directors, for the faithful dis-
19 charge of his trust. Any three of the persons named
20 in the first section of this act may call the first meet-
21 ing of said corporation, by giving notice in any
22 newspaper printed in Thomaston, of the time, place,
23 and purposes of such meeting, at least ten days before
24 the time mentioned in such notice, at which meeting
25 a board of directors shall be chosen. The annual
26 meeting of the members of said corporation shall be
27 holden on the second Monday in January, or such
28 other day as shall be determined by the by-laws, at
29 such time and place as the directors for the time
30 being shall appoint, at which meetings, the directors
31 shall be chosen by ballot, each proprietor by himself
32 or proxy being entitled to as many votes as he holds
33 shares, provided however no person shall be entitled
34 to more than twenty votes, and the directors are here-
35 by authorized to call special meetings of the stock-
36 holders, whenever they deem it expedient and proper,
37 giving such notice as the corporation by their by-laws
38 shall direct.

SEC. 9. Every person who shall have subscribed for
2 the capital stock in said company shall be holden by
3 such subscription to pay to the directors or treasurer

4 of said company fifteen dollars on every share sub-
5 scribed for, at such time or times as the directors may
6 order, and thereafterwards further instalments or
7 assessments may be laid to an amount not exceeding
8 in the aggregate on each share said sum of fifty dol-
9 lars.

SEC. 10. Said corporation shall be subject to the
2 laws now existing, and such as hereafter shall be made,
3 regulating the salmon, shad, and alewife fisheries on
4 Georges river.

SEC. 11. This act shall be in force from and after
2 its approval.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, June 22, 1846.

Ordered, That 350 copies of the foregoing Bill, reported from the committee on Interior Waters, be printed for the use of the Legislature.

SAMUEL BELCHER, *Clerk*.