

MAINE STATE LEGISLATURE

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PRIVATE ACTS

OF THE

STATE OF MAINE,

PASSED BY THE LEGISLATURE,

AT THEIR SESSIONS,

HELD IN

JUNE, 1820, AND JANUARY, 1821.

Published agreeably to a Resolve of June 28, 1820.

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ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

STATE OF MAINE.

Secretary of State's Office, }
July 18, 1821. }

THE Acts printed in this pamphlet have been compared with the originals in this office, and appear to be correctly printed, except page 46, for "trail," read "tract," page 57, for "Durham," read "Denmark," page 81, for "Megguier," read "Megquier," and page 82, for Chapter "LXIV," read "LXXIV."

ASHUR WARE,

Secretary of State.

CHAPTER LXIV.

AN ACT to establish the Cumberland and Oxford Canal Corporation.

SECT. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled,* That Arthur McLellan, Albion K. Parris, Charles Whitman, Asa Clapp, Samuel Andrews, Leander Gage, Daniel Brown, Nathaniel Howe, Enoch Perley, Josiah Whitman, and Ira Crocker, with their associates and successors, be; and they hereby are created a corporation, and body politic forever, by the name of the Cumberland and Oxford Canal Corporation, with all the powers, privileges, and immunities incident by law to a corporation aggregate. And said corporation may make any by-laws for the management of their affairs not repugnant to the laws of this State; and may take, hold, and convey in fee simple or in any less estate, any estate real, personal or mixed, necessary for carrying into effect the objects intended by this act.

Persons incorporated.

May hold real estate necessary to effect the object of the corporation.

Authorized to make a canal.

Location.

May take the lands of individuals,

by paying a just compensation.

When the damages cannot be agreed upon,

corporation may petition C. C. C. Pleas,

SECT. 2. *Be it further enacted,* That the said corporation shall have power to survey, lay out, make and forever maintain a canal or canals with a suitable number of locks, to commence at the waters of Thomas' Pond in Waterford, in the county of Oxford, thence proceeding to Sebago Pond, and thence to the navigable waters of Fore river in Westbrook, in the county of Cumberland, following such direction and terminating at such place, on said river, as they may designate; and for the purposes aforesaid may take and use the lands of private persons along the course of said canal, not exceeding the breadth of twenty rods, acquiring the same title to said lands as is acquired by the public to lands appropriated for public highways, and paying a just compensation therefor; and for the purposes of supplying and maintaining said canal or canals, the said corporation is hereby authorized to take and use any water of and from any pond or ponds, rivers, and other water courses, as the same may be convenient or necessary; and to make, in any part of such canal or canals, and at the extremities thereof, all such locks, flood gates, docks, embankments, basins, piers, wharves, and other works, as well above as below, low water mark, as may be convenient or necessary for the purposes of this act.

SECT. 3. *Be it further enacted,* That when the said corporation cannot agree with any other corporation or individual, over and through whose lands the said canal or canals may pass, then they may apply by petition to the Circuit Court of Common Pleas, when holden within and for the county in which any part of such land may lie, therein setting forth, by a proper description, the quantity of land they want,

and that they are unable to purchase the same by agreement, and requesting the said Court to have the same valued; and may file the same in the office of the Clerk of said Court in such county, and may take out a summons from him under the seal of said Court, with a copy of said petition annexed thereto, returnable at the next term of said Court; which summons shall be served at least thirty days before the sitting of said Court, to which it is returnable; and being duly served and returned by the Sheriff of the proper county or his deputy, the same may be entered with the other actions of the said Court; and the said Court shall thereupon proceed to inquire, and by the verdict of a jury, at the bar of said Court, to ascertain the value of the land taken from any individual or corporation, for the purposes aforesaid; and the same verdict, being allowed and recorded, shall be conclusive on all parties; and the amount so ascertained, being paid or tendered by said corporation, and if not accepted, left with the said Clerk for the use of the party entitled to the same, or his or their legal representative, shall operate a transfer of the estate so taken, and vest the same in said corporation, and thereupon they may enter upon, use, occupy and enjoy the same for the purposes aforesaid forever. And the said Court and all officers who may perform any service on any such application, shall be entitled to the same fees as are by law taxable in civil actions; and the said corporation may join in the said application, any one or more individuals, whose lands may be taken; and the said jury shall, in each case, return separate verdicts respecting the lands of each several respondent; and if, in the opinion of the said Court, it may be necessary, they may upon the motion of any party, direct a view of the premises by the jury upon such terms as to costs, as the Court may think proper.

and they shall be assessed by a jury.

And the tender or payment shall operate a transfer of the lands.

Corporation may join several individuals in their petition. In which case the jury shall give separate verdicts.

SECT. 4. *Be it further enacted,* That if any person or corporation sustain damage in his or their lands or rights, by using, diverting or drawing off any pond or water course, or by overflowing or dividing any lands, in consequence of any act or thing done by said corporation and the said corporation shall tender and offer to pay to the party injured as aforesaid, such sum as said corporation may deem a just and reasonable compensation, the same if found to be sufficient, as hereinafter provided, shall be a bar to any further damages for such injury.

Damages sustained by drawing off ponds,

may be tendered by the corporation.

SECT. 5. *Be it further enacted,* That any person or corporation, who may sustain damage as aforesaid, may state his complaint in writing, directed to the Circuit Court of Common Pleas, holden for the county in which such lands lay, at any term thereof, setting forth with legal certainty the injury they have sustained; and a true copy of such complaint

Persons sustaining damage may make their complaint to C. C. Pleas.

Notice to the corporation.

being left with the President or Secretary of the said corporation, thirty days at least before the setting of such Court, and being afterwards entered upon the docket, said Court may hold jurisdiction of such complaint, and give judgment and issue execution thereon ; and the said corporation may appear and plead to such complaint, any matter in bar, or abatement, or may traverse the facts therein set forth ; and the said Court, if an issue in law shall be joined thereon, shall proceed to determine the same ; and if an issue in fact shall be joined thereon, the same shall be committed to a jury at the bar of said Court, who shall try it and return their verdict thereon, and the same jury shall also inquire, and by their verdict ascertain what damages the party complaining has suffered ; and if the said corporation shall not appear, the Court may, upon their default, proceed to inquire by a jury, and ascertain the damages any complainant has sustained. And the same proceedings shall be had respecting such damages as might have been had, if the said corporation had appeared and answered to such complaint. And if the jury who may inquire of the damages in any case where the party has appeared and pleaded in bar of damages, shall not by their verdict find a greater sum in damages than was tendered as aforesaid, then the respondents shall go free of such complaint and shall have judgment and execution for their legal costs. And if the said corporation shall have neglected to tender amends for any injuries done as aforesaid, before they shall be served with a copy of such complaint, then they may, at any Court where such process may be pending, bring into the same Court, under a rule for that purpose, for the use of the party complaining, such sum in satisfaction of the injuries complained of, together with the costs which may then have arisen ; and if the complainant will not accept thereof, and shall not afterwards by the verdict of the jury recover a greater sum in damages than shall have been paid into the Court under such rule, then the party complained of shall go free of such complaint.

If the jury find no greater damages than tendered,

the respondents to have costs.

If the corporation has not tendered amends,

they may bring money into court

And if greater damages are not recovered, shall go free.

Parties may appeal to Supreme Court.

SECT. 6. *Be it further enacted,* That any party aggrieved at the judgment of any Circuit Court of Common Pleas, may appeal therefrom, to the next Supreme Judicial Court, to be holden within or for such county as aforesaid ; and the party appealing, shall before the same be granted, enter into recognizance with one or more sureties, to prosecute his appeal, and to pay such additional costs and damages as may be awarded against him : and the Supreme Judicial Court shall proceed on such appeal, in all respects as the Court having original jurisdiction thereof.

Persons maliciously injuring the canal.

SECT. 7. *Be it further enacted,* That if any person or persons, shall wilfully, maliciously, or contrary to law, take

up, remove, break down, dig under, or otherwise injure any part of said canal or canals, or any work or works connected with or appertaining to the same or any part thereof, such person or persons, for every such offence, shall forfeit and pay to such corporation, a sum not less than fifty dollars, nor more than five thousand dollars, according to the nature and aggravation of injury done or committed. And such offender or offenders shall further be liable to indictment for such trespass or trespasses, and on conviction thereof, shall be sentenced to pay a fine to the use of the State, not more than one hundred dollars, nor less than twenty five dollars.

Penalty to the corporation.

And they may be indicted.

Penalty to the State.

SECT. 8. *Be it further enacted*, That the stock and property of this corporation, shall be divided into two thousand shares, certificates of which shall issue under the seal of said corporation, and be signed by the President and Treasurer thereof; and the said shares shall be deemed and taken to be personal estate, and may be transferred by endorsement, and such transfer shall be recorded by the Secretary of said corporation. And the said corporation may make assessments on the shares, for the purpose of effecting the objects of the corporation: *Provided however*, That the whole amount of the assessments on each share, after deducting the amount of all dividends previously declared thereon, shall not exceed the sum of fifty dollars. And in case the amount of fifty dollars, so assessed on each share, will not supply the necessary funds, the corporation may raise the funds required, by selling any shares not subscribed for; or by creating and selling any necessary number of shares, over and above the said two thousand. And if the proprietor of any share or shares, shall neglect or refuse to pay any assessment, for the term of thirty days, after the same hath become due, the share or shares, on which there is a delinquency may be sold at public auction; notice of the time and place of such sale, being given by the Treasurer of said corporation, in two public newspapers, printed in Portland, three weeks at least, previous to the time appointed for such sale; and the proceeds of the sale shall be applied to the payment of the assessments due on the share or shares so sold, with the incidental charges; and the surplus, if any shall be paid to the former owner or his legal representatives on demand; and such sale shall give a good and complete title to the purchaser of such share or shares, and he shall receive a new certificate or certificates therefor: *Provided however*, That if before the actual sale of any such delinquent share or shares, the proprietor thereof pay the assessments due thereon, with interest from the time they become due, and all necessary and reasonable charges, the sale shall not proceed.

Stock to be divided into 2000 shares,

which shall be personal estate.

How transferred.

Shares may be assessed.

But not exceeding 50d. on a share, exclusive of dividends.

And if that amount is insufficient, may create new shares,

Shares of delinquent proprietors may be sold.

Toll granted.

Rates.

Goods may be detained until toll is paid.

Toll may be altered in 20 years.

This a public act.

Part of the canal to be completed in 5 years.

Bridge with draws to be kept over the canal.

Stock exempted from taxes till the increase is equal to 6 per cent. on the capital.

SECT. 9. *Be it further enacted*, That a toll shall be, and hereby is granted and established for the benefit of said corporation, according to the rates following, on all goods, lumber or other commodities passing through said canal or canals actually cut and made navigable : viz. for all planks, boards, joist or other sawed stuff, and for all board logs, floated on rafts or otherwise, six cents a mile for each thousand feet, board measure ; for clapboards and staves, six cents a thousand ; for shingles, two cents a thousand ; for cordwood and bark, six cents a cord, for each mile ; for all timber and masts, six cents a ton for each mile ; and for other lumber in proportion to the above rates ; for all kinds of goods or provisions carried in boats or on rafts, six cents a ton for each mile ; for all boats or rafts, six cents for each lock the same may pass, in addition to the toll aforesaid. And said toll shall commence and be payable as soon as any mile of such canal is completed for the passage of suitable boats and rafts. And said corporation shall have power to detain any goods or lumber transported on said canal or canals until the toll due therefor is paid ; and after twenty days from the time such toll became due, may sell at public auction, or otherwise so much of such goods or lumber as may be necessary to pay such toll and other incidental charges ; or said corporation may sue for said toll by action of debt in any Court proper to try the same : *Provided*, That when twenty years from the first opening thereof shall have expired, the Legislature from thence forward may regulate the rate of toll ; and the same shall be collected in such manner as shall be prescribed by the said corporation.

SECT. 10. *Be it further enacted*, That this act in all legal proceedings shall be deemed a public act ; and if said corporation shall not complete said canal from Fore River to Presumpscot River aforesaid, within five years from the passage of this act, then this act shall be void.

SECT. 11. *Be it further enacted*, That it shall be the duty of said corporation to make and keep in good repair, at all times, good and sufficient bridges, with draws over said canal or canals, where any county or town roads now cross the land which may be taken for the same, for the passage of teams, mail stages and carriages, and every thing else necessary for the public convenience toll free.

SECT. 12. *Be it further enacted*, That the stock and property of said corporation shall be exempted from all public taxes, until a dividend shall be made on the shares of said corporation, equal to an annual income of six per centum on the money actually expended by said corporation in making said canal or canals and other works connected with, and appertaining to the same.

SECT. 13. *Be it further enacted,* That any four of the First meeting. persons named in the first section of this act may call the first meeting of said corporation, to be holden at such time and place as they may judge proper, of which meeting they shall give notice by publishing the same in both of the Portland newspapers, the first publication to be at least fourteen days previous to said meeting. And at all meetings of said corporation, one vote shall be allowed to a share, and one vote for every additional two shares owned by the same proprietor: *Provided,* No one proprietor shall be allowed more than ten No proprietor to have more than 10 votes. votes; and absent proprietors may vote by proxy duly authorized in writing.

SECT. 14. *Be it further enacted,* That there shall be Court of Sessions to appoint committees to examine the canal. appointed by the Justices of the Court of Sessions, in each county through which said canal may pass, a committee or committees of three disinterested and discreet men, whose duty it shall be to examine, ascertain and report from time to time to said Courts when said canal or canals or any part thereof shall be completely navigable, and also to ascertain the number of miles in length, and the number of locks completed according to the intent of this act.

[*This Act passed March 15, 1821.*]

CHAPTER LXXV.

AN ACT to establish a corporation for the purpose of diking a certain tract of marsh in the towns of Cape Elizabeth and Scarborough.

SECT. 1. *BE it enacted by the Senate and House of Representatives in Legislature assembled,* That Nathaniel Dyer, Persons incorporated. William Dyer, Sylvanus Higgins, Nathaniel Jordan, 5th, Joshua Mitchell, Joseph Hasty, Edmund Higgins, Luther Libby, Morrell Jordan, William Maxwell, Israel Jordan, Ebenezer Delano, William Fickett, Nathaniel Dyer, jun. Woodbury Jordan, Elisha Jordan and Samuel Waterhouse, being the principal part of the owners of the said tract of marsh, together with their associates, and such others as may hereafter associate with them, and their successors, shall be a corporation by the name of the Proprietors for diking salt marsh in Cape Elizabeth and Scarborough, with all the powers and privileges incident to similar corporations for the purpose of making and keeping in repair a dike wall across Spurwink river, which flows through said marsh, and for building dams and water courses for the drawing off of fresh water, and excluding the salt water from the said marsh, lying partly in Cape-