

MAINE STATE LEGISLATURE

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PRIVATE ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

SIXTH LEGISLATURE,

AT ITS SESSION, HELD IN JANUARY, 1826.

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PUBLISHED AGREEABLY TO THE RESOLVE OF THE 28th OF JUNE, 1826.

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Portland.

PRINTED BY THOMAS TODD.....PRINTER TO THE STATE.

1826.

No dam to be erected without having passage way, &c.

under penalty.

SECT. 5. *Be it further enacted,* That no person shall hereafter erect any dam on the river aforesaid without leaving a sufficient sluice or passage way for Alewives, as provided in the first section of this Act, and to the satisfaction of the committee hereby authorized, under penalty of fifty dollars.

Duty of the committee to prosecute offences.

Penalties how recovered, and to whose use.

SECT. 6. *Be it further enacted,* That it shall be the duty of said fish committee, to prosecute for all offences against the provisions of this Act, in any Court of competent jurisdiction; and all penalties or forfeitures recovered, shall enure one half to the use of said town of Bristol, and the other half to said committee.

Committee not to be considered trespassers in the execution of their duties;

penalty for resisting the committee, &c.

Inhabitants of Bristol may be witnesses.

SECT. 7. *Be it further enacted,* That said committee shall in no respect be considered as trespassers in passing over the lands of individuals in any part of said town in execution of the duties of their office; and any person resisting or opposing said committee, or either of them, in the performance of their duties aforesaid, shall forfeit and pay a sum not less than ten dollars, nor more than twenty dollars; and no person, by reason of his being an inhabitant of said town of Bristol, or one of said committee, shall be disqualified from being a witness in any prosecution for offences under this Act.

Parts of former Acts repealed.

SECT. 8. *Be it further enacted,* That all Acts or parts of Acts inconsistent with the provisions of this Act, be, and they hereby are repealed.

[*Approved by the Governor, March 4, 1826.*]

CHAPTER CCCCXVIII.

AN ACT to establish the Kennebec and Androscoggin Canal Association.

Persons incorporated.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That Robert H. Gardiner, Nehemiah Pierce, Sylvanus Thomas, William H. Brettun,

Samuel Jewett, Edward Fuller, Joshua Bowles, Thomas Chase, Jun. Samuel Holland, and Solomon Adams, with their associates and successors, be, and they hereby are, created a corporation and body politic, by the name of the Kennebec and Androscoggin Canal Association, 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, any estate real, personal or mixed, necessary for carrying into effect the objects intended by this Act, not exceeding in value, the sum of three hundred thousand dollars.

Powers, privileges, &c.

May hold estate necessary to carry into effect the objects intended, not exceeding a certain amount.

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, from the Kennebec river, in the town of Gardiner, to the Androscoggin river, in the town of Leeds, in or by the Cobbosse Contee stream and ponds, the Androscoggin pond and Dead river, beginning and terminating at such points, and pursuing such direction, between the said rivers, as the said corporation may designate; and shall also have power to survey, lay out, make and forever maintain, a Canal or Canals, from the Sandy river, in Farmington, by and through any of the ponds in the county of Kennebec, to the said first mentioned Canal; to commence and terminate at such points, and to follow such direction, between said Sandy river and said first mentioned Canal, as the said corporation may designate: And shall have power to connect any of the ponds in said county, with said canal, by means of canals, locks or other works; and shall farther have power to improve the boat navigation of Androscoggin river above the mouth of Dead river in Leeds, within this State, by building, making and maintaining locks, inclined planes, dams or other works, or by making canals, in such man-

Authorized to make & maintain canal or canals from Kennebec to Androscoggin river, &c.

Also from Sandy river to the first mentioned canal.

May improve the boat navigation of the Androscoggin.

Proviso.

May take the
lands of individ-
uals,

by paying a just
compensation.

Proviso.

May take waters
for the purposes
of supplying the
canals.

Proviso.

ner, and at such places as they may designate, and by removing rocks, shoals, or obstructions, in said river: *Provided*, That this grant shall not preclude the Legislature from authorizing any other corporation to take water from said river, for the supply of any other canal or canals: *And Provided also*, That this Act shall not be construed, as intending to grant to this corporation, any exclusive privilege in the rivers, ponds and waters which they may use for the purpose aforesaid; and said corporation may take and use such lands of private persons, along the course of said canals, as may be necessary for the purposes of this Act, acquiring the same title thereto, as is acquired by the public to lands appropriated for public highways, and paying a just compensation therefor: *Provided*, That no site occupied for a dwelling house, factory or mill, and mill dam, shall be taken, without the owners assent, a or license from the Supreme Judicial Court, holden for the county, in which such site, so occupied, may be, who are hereby authorized to inquire into the same by a committee or otherwise, at their discretion; and for the purposes of supplying and maintaining said canal or canals, any or all of them, the said corporation is hereby authorized to take and use any water of and from any pond or ponds, rivers or other water courses that may be necessary, and to make in any part of said canal or canals, and at the extremities thereof, all such locks, flood gates, docks, embankments, piers, wharves, basins, inclined planes, or other works that may be convenient or necessary for the purposes of this Act, but not below low water mark of the tide waters in Kennebec river: *Provided*, That no more water shall be taken from any river or pond, than may be necessary to supply the canal leading from such river or pond: *And provided also*, That the said corporation shall not have right to draw water immediately from the Androscoggin river, but shall be required to keep and maintain

a dam across the mouth of Dead river, which shall prevent the water of said Androscoggin river from flowing into said canal, in consequence of any exhaustion of the waters of said Dead river or Androscoggin pond, occasioned by supplying the canal.

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, they may apply by petition to the Court of Common Pleas, when held in 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 are unable to purchase by agreement with the owners, 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 the same 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 by the proper officer for serving such process, 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 damage sustained by any individual or corporation, whose land shall be taken for the purposes aforesaid; and the same verdict being allowed and recorded, shall be conclusive on all parties; and when the amount, so ascertained, with costs, shall have been paid or tendered by said corporation, and if not accepted, left with the said Clerk, for the use of the party entitled thereto, or his or their legal representative, the said corporation shall be vested with the same title thereto, and right in such estate, as is acquired by the public in lands appropriated for highways, and may thereupon enter upon, occupy

When damages cannot be agreed upon, may petition the Court of Common Pleas;

proceedings thereupon.

and use the same, for the purposes aforesaid forever. And the said Court and all officers who may perform any service on 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 Court may direct distinct trials; 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.

Damages sustained by drawing of water may be tendered.

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 injuring 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 herein after provided, shall be a bar to any further damages for such injury.

Persons sustaining damages may complain to the Court of Common Pleas.

SECT. 5. *Be it further enacted,* That any person or corporation who may sustain damage as aforesaid, may state his complaint in writing; to the Court of Common Pleas, holden for the county in which such lands lie, or in which said rights are disturbed, at any term thereof, setting forth with legal certainty the injury they have sustained; and a true copy of such complaint being left with the President or Secretary of the said corporation, if any there be, otherwise, with any member of said corporation, thirty days at least before the sitting 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 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, as said corporation may deem reasonable, 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.

Proceedings
thereupon.

SECT. 6. *Be it further enacted,* That any party aggrieved at the judgment of any Court of

Party aggrieved
may appeal to the
S. J. Court.

Common Pleas, may appeal therefrom to the next Supreme Judicial Court, to be holden within and for such county as aforesaid; and the party appealing, shall, before his appeal shall 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; and if said corporation shall fail to pay and satisfy any execution issued on judgment recovered by any corporation or person, by reason of damages sustained as is mentioned in the third and fourth sections of this Act, for the space of thirty days after demand made by the officer having such execution, on the President or Treasurer of said corporation, it shall be lawful for such officer to levy such execution on the goods or estate of any of the members of said corporation.

Corporation may
build and main-
tain boats; and

erect warehouses,
wharves, &c.

Canals, &c. to be
considered navigable
as a public
highway, for cer-
tain purposes up-
on payment of
tolls.

SECT. 7. *Be it further enacted,* That the said corporation shall have power to build and maintain all such boats as may be convenient and necessary for the transportation of goods, commodities, lumber and articles of every description, in and upon said canal or canals, as they may deem expedient; and shall have the power to erect and maintain ware-houses, wharves, and other suitable places for the safe keeping of merchandize, and other commodities which may be transported on said canal or canals, at such places as they may designate. And said canals and other works, erected in virtue of this Act, when completed, shall forever thereafter, be esteemed and taken to be navigable as a public highway, for the transportation of all lumber, goods and commodities whatever, upon payment of the tolls established by law.

SECT. 8. *Be it further enacted,* That if any person or persons, shall wilfully or maliciously, take up or 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, or any boat or boats, store or ware-house, owned by said corporation, such person or persons, for every such offence, shall forfeit and pay to said corporation, a sum not less than fifty dollars, nor more than five thousand dollars, according to the nature and aggravation of the 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, of not more than one hundred dollars, nor less than twenty-five.

Penalty for maliciously injuring the canal or other works.

SECT. 9. *Be it further enacted,* That the stock and property of this corporation shall be divided into two thousand shares of one hundred dollars each, 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 in case the amount to be paid in for said shares shall not supply the necessary funds, the corporation may raise the funds required by creating and selling any additional number of shares, which may be necessary over and above the said two thousand shares: *Provided,* That no assessment shall ever be made upon said shares, without the concurrence of at least two thirds of the persons in interest; nor shall such assessments ever exceed, in their total amount, twenty-five dollars on each share; and if the proprietor of any share or shares shall neglect or refuse to pay any assessments, for thirty days after the same has 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 sale, being given by the Treasurer of said corporation, in one public

Stock to be divided into 2000 shares,

to be considered personal estate, and may be transferred.

Corporation may create additional shares;

Proviso.

Shares of delinquent proprietors may be sold.

newspaper printed in Kennebec, and one in Oxford, if any there be, three weeks at least previous to the time appointed for such sale, and the proceeds 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 such delinquent share or shares, the proprietor thereof shall pay the assessments due thereon, with interest from the time they became due, and all necessary and reasonable charges, the sale shall not proceed.

Proviso.

Toll granted.

Rates.

SECT. 10. *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, upon all goods, lumber or other commodities transported upon said canal, from the Androscoggin river to the Kennebec river, or upon the said canal from the Sandy river to the Kennebec river, to wit: Timber per ton, white oak, two dollars; red oak, one dollar; pine, one dollar; spruce or hemlock, fifty cents; lumber, per thousand feet, board admeasurement, pine, two dollars; oak, three dollars; ash and other hard stuff not enumerated, two dollars and twenty-five cents. Staves, per thousand, pipe, one dollar and seventy-five cents; hogshead, white oak, one dollar and twenty-five cents; red oak, one dollar; barrel, red oak, fifty cents; white oak, seventy-five cents; ash, fifty cents; shingles, per thousand, thirty-seven and one half cents; clapboards, per thousand, two dollars; merchandize other than herein enumerated, per ton, two dollars; oats, per ton of seventy-five bushels, one dollar and fifty cents; corn and rye, per ton of forty bushels, one dollar and fifty

cents; potatoes per ton of forty bushels, one dollar and fifty cents; charcoal per one hundred bushels, one dollar and fifty cents; hay screwed, per ton, two dollars; bark per cord, one dollar and fifty cents; barrels filled with pot ash, seventy five cents; beef or pork, fifty cents; spirits or wine, thirty-seven and one half cents; cider, twenty cents; lime, salt, iron or iron castings, per ton, one dollar; and all other articles not herein enumerated, shall be holden to pay such toll as may be established by said corporation, as near as may be to the rates aforesaid; and for passing any distance on either of said canals, less than the whole, all goods, lumber, or other commodities shall be subject to pay such proportion of the rates aforesaid, as said distance bears to the whole distance. And said corporation shall

have power to detain any goods or lumber transported on said canal or canals, until the toll due therefor, shall be paid; and twenty days after the time such toll shall have become 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 of proper jurisdiction: *Provided however,* That when twenty years from the first opening of the canal or canals aforesaid, shall have expired, the Legislature from thence forward may regulate the rate of toll at their pleasure; and the same shall be collected, in such manner as may be prescribed by said corporation.

SECT. 11. *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 the Kennebec to the Androscoggin river, within eight years from the passing of this Act, then so much thereof, as relates thereto, shall be void; and if said corporation shall not complete said canal from the Sandy river aforesaid, to the first mentioned canal, within ten years from the passing of this Act, then so

Goods may be detained until the toll be paid, &c.

Toll may be altered in 20 years.

This declared to be a public Act.

Parts of the Act to be void in case certain provisions be not complied with.

much of this Act as relates thereto shall be void : And if said corporation shall not improve the navigation of said Androscoggin river, as authorized in this Act, within twelve years from the passage of this Act, then so much of this Act as relates thereto, shall be void.

Certain logs not to be subject to toll.

SECT. 12. *Be it further enacted,* That no logs that may pass down said Androscoggin river, shall be subject to pay toll for passing any of the locks, sluice ways, inclined planes or other works, that may be erected on the same by said corporation ; but all rafts, boats or commodities shall be subject to pay for passing through said locks, sluice ways, inclined planes or other works, such rates of toll as the Legislature may prescribe.

Bridges, &c. to be erected and kept in repair.

SECT. 13. *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 over said canal or canals, with suitable draws in the same when necessary, where any county or town roads now cross, or may hereafter cross the land which may be taken for the same, for the passage^d of teams, mail stages and carriages, and every thing else necessary for the public convenience, toll free.

Stock exempted from taxes until dividend of six per cent. shall be made.

SECT. 14. *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, or other works connected with and appertaining to the same.

Legislature may take the Canals, &c. after 6 years, upon paying cost and interest.

SECT. 15. *Be it further enacted,* That after six years from the passage of this Act, the Legislature may take the said canals, or so much of the same as shall have been completed, together with the works connected therewith, by paying to the corporation the actual cost of said canals and works, and interest, after deducting the amount of income which may have been received by said corporation.

SECT. 16. *Be it further enacted,* That any four of the persons named in the first section of this Act, may call the first meeting of said corporation, to be held at such time and place as they may judge proper; of which meeting they shall give notice, by publishing the same in one public newspaper printed in Portland, one such newspaper published in Kennebec county, and another in Oxford county, the first publication to be fourteen days, at least, previous to said meeting. And at all meetings of said corporation, one vote shall be allowed to a share; and absent proprietors may vote by proxy duly authorized in writing.

First meeting, by whom and how called.

Each share allowed one vote.

SECT. 17. *Be it further enacted,* That nothing in this Act, shall be so construed, as to prevent the owners of logs on Androscoggin river from making and maintaining a boom across Dead river, at any suitable place therein during the times of freshets, for the purpose of preventing their logs passing up said river. And if any logs shall escape and pass into said Dead river, then the owners thereof shall have a right to bring them back into said Androscoggin river free of toll.

Nothing in this Act to prevent a boom across Dead River, &c.

[*Approved by the Governor, March 4, 1826.*]

CHAPTER CCCCXIX.

AN ACT to incorporate the Union Lodge.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That Nathaniel Robbins, William Batie, Elisha Harding, their associates and successors, be, and they hereby are constituted a body politic and corporate, by the name of the Union Lodge; with power to prosecute and defend suits at law; to have a common seal and to change the same; to make any by-laws for the management of their affairs, not repugnant to the laws of the State; to take and hold for charitable and benevolent uses, any real estate to the value of

Persons incorporated.

Powers, &c.

May hold estate, &c.