

MAINE STATE LEGISLATURE

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PRIVATE ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

EIGHTH LEGISLATURE,

AT ITS

SESSION HELD IN JANUARY, 1828.

Published agreeably to the Resolve of the 28th June, 1828.

PORTLAND.

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1828.

CHAPTER DXIV.

AN ACT to establish the Stillwater Canal Corporation.

SECT. 1. *BE it enacted by the Senate and House of Representatives, in Legislature assembled,* That John Bennoch, Asa W. Babcock, John Bennoch, junior, Budd Parsons, Henry Sleeper, John Read, Moses Averell, Daniel White, William Emerson, James B. Fisk, Zebadiah Rogers, Thomas A. Hill, Samuel White and George Read, with their associates and successors, be, and they are hereby, created a corporation and body politic forever, by the name of the Stillwater Canal Corporation, with all the powers, privileges and immunities incident by law to a corporation aggregate; and said corporation may sue and be sued, have a common seal and change the same; make any by-laws for the management of their affairs, not repugnant to the laws of the State; and may take, hold, and convey any estate, real, personal, or mixed, necessary for carrying into effect the objects intended by this Act.

Persons incorporated.

Powers, privileges, &c.

May hold estate necessary to carry into effect the objects intended.

Authorized to make and maintain a Canal.

Route for the Canal.

May take water for supplying the Canal.

May make dams, locks, &c.

SECT. 2. *Be it further enacted,* That the said corporation shall have power to survey, lay out, make, and forever maintain, a Canal, with suitable locks, to commence at or below the mouth of Pushaw Stream, in Orono, in the county of Penobscot, thence proceeding down the Stillwater stream, to John Bennoch's mills, thence to the water, called the basin, on the westerly side of Eayer's Island, so called, in said Orono, thence to the main Penobscot river; And for the purposes of supplying and maintaining said Canal, the said corporation is hereby authorized to take and use the waters of said Stillwater stream, as the same may be necessary; and to make, in any part of such Canal, and at the extremities thereof, all such dams, locks, floodgates, sluices, and other works as may be necessary for the purposes of said Canal.

SECT. 3. *Be it further enacted,* That if any person or persons shall be injured by means of said Canal, or any thing done by said corporation in making or maintaining said Canal or locks, and cannot agree with said corporation upon the damages to which he or they may be entitled, such person or persons may make complaint thereof, in writing, to the Court of Common Pleas, for the county of Penobscot, who shall have jurisdiction thereof; and said Court, after notice to said corporation, shall have power to appoint a Committee of three disinterested and discreet freeholders of said county, which committee, after being sworn, and having given reasonable notice to the parties, and viewed the premises alleged to have been injured, shall make appraisement of the damage done to such complainant or complainants, and said committee, or a major part of them, shall make report thereof, in writing, to said Court, as soon as may be after said service is performed, and upon acceptance of such report, said Court is authorized to render judgment and issue execution for the sum thus reported, and such costs as the Court may order; and in case such committee shall not report any damage to the complainant, said Court are authorized to adjudge to the respondents such costs as they may think reasonable and to issue execution therefor: *Provided, however,* That if either party be dissatisfied with the report of said committee, so appointed, and shall at the same session of said Court, at which said report shall be made, apply to said Court for a trial by jury, in the manner other causes are determined; the Court aforesaid shall have power to determine the same by jury as aforesaid; and if the verdict of the jury shall not give to the party applying a greater sum in damages than said committee shall have awarded as aforesaid, then the said Court shall award costs against the applicants; but if said last decision shall be more favorable to the party applying than the report of

When damages, claimed by persons injured, cannot be agreed upon, application may be made to the Court of Common Pleas;

proceedings thereupon.

Proviso.

said committee, then the said Court shall render judgment accordingly, and issue execution, in either case.

Penalty for mischievously injuring the Canal.

SECT. 4. *Be it further enacted,* That if any person or persons shall wilfully or mischievously destroy or injure said Canal, or any part thereof, or divert or obstruct the water, to the damage of the proprietors thereof, he or they shall pay treble the value of such damage as said Proprietors shall, before the Court and jury before whom the trial shall be had, make to appear said proprietors have sustained, by means of said trespass, to be sued for and recovered in any court proper to try the same.

Stock to be divided into two hundred shares.

to be considered personal estate, and may be transferred.

Assessments may be laid.

Shares of delinquent proprietors may be sold.

SECT. 5. *Be it further enacted,* That the property and stock of this corporation shall be divided into two hundred 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; and if the proprietor of any share or shares, shall neglect or refuse to pay any assessments, 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 Bangor, 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 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 became due, and all necessary and reasonable charges, the sale shall not proceed.

SECT. 6. *Be it further enacted,* That a toll shall be, and hereby is, granted and established for the benefit of said corporation, on all goods, lumber, or other commodities passing through said Canal actually made navigable, viz: for all mill logs and planks, boards, and all other sawed stuff floated on rafts, or otherwise, three cents, for each thousand feet, board measure; for clapboards and staves, three cents a thousand; for laths and shingles, one and a half cents a thousand; for cord wood and bark, four cents a cord; for hewn timber, one and a half cents per ton; which rates of toll are established and to be paid for each mile of said Canal that may be passed with said articles respectively; and for all other lumber in proportion to the above rates; for all kinds of goods or provisions carried in boats or on rafts, four cents a ton for each mile; for every boat or raft, six cents for each lock the same may pass, in addition to the toll aforesaid; and said toll may commence and be payable as soon as any mile of such canal is completed for the passage of boats and rafts. And said corporation shall have power to detain any goods or lumber transported on said Canal until the toll due therefor is paid; and after ten 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 ten years from the completing of said Canal shall have expired, the Legislature, from thence forward, may

Toll established.

Rates.

When to commence.

Goods may be detained until paid, &c.

Toll may be altered in ten years.

regulate the rates of toll ; and the same shall be collected in such manner as shall be prescribed by the said corporation.

SECT. 7. *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 within four years from the passage of this Act, then this Act shall be void.

This declared to be a public Act.

Act to be void, unless the Canal be completed in four years.

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

SECT. 8. *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, where any county or town roads now cross the land which may be taken for the same, except the Stillwater bridge, for the passage of teams, mail stages and carriages, and every thing else necessary for the public convenience, toll free.

Stock exempted from taxation until a dividend be made, equal to six per cent.

SECT. 9. *Be it further enacted,* That the stock and property of said corporation shall be exempted from 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 and other works connected with and appertaining to the same.

First meeting, by whom and how called,

SECT. 10. *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 holden at such time and place as they may judge proper, of which meeting they shall give notice by publishing the same in one of the newspapers printed at Bangor, 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 twenty votes ; and absent proprietors may vote by proxy duly authorized in writing.

Manner of voting.

Provido.

[Approved by the Governor, February 6, 1828.]