

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

TENTH LEGISLATURE,

AT ITS

SESSION, COMMENCING JANUARY 6th 1830.

Published agreeably to the Resolve of the 28th June, 1820.

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1830.

CHAP. 85.

AN ACT in addition to the several Acts “ for the preservation of Fish in Penobscot River and Bay, and the several streams that empty into the same.

Approved March 8, 1830.

BE it enacted by the Senate and House of Representatives, in Legislature assembled, That so much of the third section of “ An Act for the preservation of Fish in Penobscot River and Bay, and the several streams emptying into the same,” passed the twenty second day of February, in the year of our Lord eighteen hundred and fourteen, as requires passage ways in the weirs erected in the waters of Penobscot Bay and River to be kept open and clear from sunrise on Friday in each week to sunrise on Monday in the succeeding week, be, and hereby is repealed, and in lieu thereof, such passage ways shall be kept open and clear from sunrise on Saturday in each week to sunrise on Monday in the succeeding week.

Part of Act of 22d Feb. 1814 repealed and another provision substituted therefor.



CHAP. 86.

Former Acts Vol. 1, chaps. 74, 100, 353, 510. Vol. 2, chap. 46. AN ACT in addition to an Act to establish the Cumberland and Oxford Canal Corporation.

Approved March 9, 1830.

SECT. 1. Be it enacted by the Senate and House of Representatives, in Legislature assembled, That the property and concerns of the Cumberland and Oxford Canal Corporation, shall be managed and conducted by a Board of Commissioners, to consist of three or five Stockholders, as the corporation from year to year shall deem necessary: who shall be annually elected at a Stockholders meeting, to be held on such day in January or February, and notified in such manner as in

Board of Commissioners to be chosen

their by-laws is, or shall be prescribed, and shall hold their office for the year, and until others are chosen. A majority of those, who are annually elected, shall be a quorum for transacting business; and shall immediately after being chosen, appoint one of their number for President of the Board and of the Corporation, and shall appoint some suitable person for their secretary, who shall also be secretary of the corporation. In case of vacancy in the Board, they may fill the same for the remainder of the year, or it may be filled at a special meeting of the Stockholders, called for that purpose. The first board of commissioners to be elected under this act, shall be chosen on the seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty, at a meeting of the Stockholders to be holden on that day, by adjournment, for choice of Directors under the by-laws of said corporation.

President and Secretary.

Vacancies in board how filled.

SECT. 2. *Be it further enacted,* That the names of all boats, navigating the canal, shall be registered in the office of such collector, as shall be annually designated by the commissioners. And it shall be the duty of every owner of a boat to have the name thereof plainly painted on the stern in letters of at least four inches in length, and said owner shall, within ten days after putting such boat into the canal, sign and deliver a certificate to said collector, stating the name thereof, and that he or they are the owner or owners of the same. And when the ownership of any boat is changed, the purchaser shall exhibit to said collector the bill of sale, and leave a copy thereof with a certificate of his ownership as aforesaid, within ten days after such transfer, and in neglect of either of the provisions aforesaid, he shall forfeit the penalty of five dollars.

Names of boats to be painted on the stern; to be registered in the office of Collector, as also transfers of boats, on penalty of \$5 for neglect.

SECT. 3. *Be it further enacted,* That the person representing himself by the certificate required in the preceding section, as owner of a boat, shall be deemed and held liable as the true owner

Owner of a boat, how designated.

thereof, for all purposes of enforcing the collection of tolls and the execution of the rules and regulations of the navigation of the canal.

Clearances & payment of tolls regulated.

SECT. 4. *Be it further enacted,* That every person, having the direction of a boat conveying property on the canal, shall exhibit to the collector of the first office that he arrives at, a true and just account of the quantity and kind of lading on board, in writing by him signed, specifying the place where taken on board, and the place where intended to be landed, and shall pay the toll thereon, and the collector shall enter the same on his books and give a clearance, specifying the lading on board, and the tolls which have been paid or secured. And the master of the boat shall exhibit said clearance to any other collector, who shall afterwards require it, and if no additional freight has been taken on board, said collector shall endorse his name thereon and return it; but if otherwise, a new account shall be made of such additional freight, signed as aforesaid, and said collector shall give an additional clearance to the master of the boat, he paying the toll on such additional freight, and every boat, with the freight on board, shall be held liable for the toll thereon, till such freight is wholly landed or discharged.

Penalty for giving deficient or false account of freight.

SECT. 5. *Be it further enacted,* That if any person, who has the charge of a boat, shall not give a true and just account of the articles and their quantity on board his boat, as required in the preceding section, or shall deliver any article at a place beyond that stated in the account by him signed, without rendering an account thereof, and paying the additional toll on such articles, or shall take additional freight on board after rendering his account as aforesaid, and shall neglect to give information thereof to a collector and pay the toll thereon, he shall for either of the above offences, forfeit ten dollars, and pay twice the amount of tolls on the freight not accounted for as aforesaid.

SECT. 6. *Be it further enacted,* That if any collector shall have reason to apprehend, that a true account has not been rendered of the freight on board any boat, he shall have a right to detain said boat, and have the same ascertained, and if found to exceed the account rendered, in addition to the full amount of toll on such freight, so ascertained, the person rendering such false or erroneous account, shall pay the expense of ascertaining the true quantity, and be further liable to the penalty prescribed in the preceding section, for not rendering a true account of the articles and their quantity on board his boat. *Provided also,* That when the account of freight on board of any boat or boats, unreasonably detained, shall be found on examination to be correct, said corporation shall be liable to pay the owner or owners of such boat or boats a reasonable compensation for such detention.

Collectors may detain boats and ascertain the amount of freight in case, &c.

Proviso:

SECT. 7. *Be it further enacted,* That if any person having the charge of a boat, shall refuse to pay the toll on the articles laden on board his boat, the collector shall have a right to detain the boat and articles thereon until such toll shall be paid. And if the same remains unpaid for six days, said collector shall expose for sale so much of any part of the property on board, at his office for receiving tolls, as will produce the amount of the tolls due thereon and charges of keeping and sale, having posted notice at his said office and one other public place nearest to said place of sale, for three days prior to the day appointed for such sale.

Collectors may detain boats, or persons refusing to pay toll, and may sell the freight, &c. to pay the same, &c.

SECT. 8. *Be it further enacted,* That every lock-tender, at the lock nearest to a collector's office, shall have a right to require of every master of a boat, before permitting him to pass, to produce and exhibit to him the collector's clearance, required by this Act; and on his refusing or being unable to produce the same, the said lock-tender shall have a right to require said master to moor his boat at such distance from said lock, in

Lock tenders may require exhibition of Collector's clearance. Proceedings in case of refusal:

such place as not to interfere with any other boat that may have occasion to pass through said lock; and on said master's refusing to move his boat immediately to such place, as he shall be directed by said lock-tender, he shall forfeit the sum of five dollars, and a like sum for every half hour that he shall obstruct the passing of any other boat.

SECT. 9. *Be it further enacted,* That the master of every boat carrying passengers, shall deliver to some collector of tolls a statement of the number of passengers, and at the same time pay to such collector the toll on such passengers at the rate of not exceeding two cents per mile; and said collector shall give said master a certificate of the number of passengers and the distance paid for. And if any master shall intentionally render an erroneous account of the number of passengers or the distance they had and were to pass on said canal, he shall forfeit the sum of ten dollars, and pay twice the amount of the toll on each passenger, that he neglected so to give an account of, and for the difference of distance that any passenger shall have passed on said canal.

Masters of boats to give account of passengers, &c.

Penalty for giving false account.

SECT. 10. *Be it further enacted,* That when any boat passing on the canal shall meet with another boat, it shall be the duty of the master of each to pass on the right, so as to leave the centre of the canal on the left; but if they shall meet where the canal is not of sufficient width for boats to pass, and one only is a loaded boat, the unloaded boat shall drop back to a place of sufficient width to admit of their passing; but if both are loaded, then the one passing up the canal, shall drop down so as to admit of their passing; and any master of a boat refusing to comply with this regulation, shall forfeit the penalty of two dollars, and be further liable for all damages that may accrue in consequence of such refusal.

Passage of Boats meeting on the Canal, regulated.

SECT. 11. *Be it further enacted,* That any unnecessary delay of a boat in a lock, or in entering or leaving a lock, shall subject the person having

the charge thereof to the penalty of two dollars ; and any person having the charge of a boat laying at anchor in the canal, who shall neglect or refuse to move his boat, when requested, to such place as the collector or lock-tender shall direct, he shall be subject to the penalty of two dollars, and said collector or lock-tender, on such refusal by the master of the boat, shall have a right to move the same to such place as will not interfere with other boats navigating the canal.

Penalty for unnecessary delay in entering and leaving a lock, or mooring boats in unsuitable places.

SECT. 12. *Be it further enacted,* That no boat shall move on the canal faster than at the rate of four miles an hour ; and every person having the charge of a boat, who shall violate this provision, shall forfeit the penalty of five dollars, and also a further sum of five dollars for each and every mile that he exceeds the rate above mentioned. And to prevent all unnecessary injury to the canal, locks and boats, that may pass each other, no person on board a boat shall be permitted to use any setting pole or shaft pointed with iron or other metal ; and the master of a boat, on board of which a violation of this provision is committed, shall forfeit the penalty of two dollars.

Boats not to move faster than 4 miles per hour.

Use of setting poles pointed with iron &c. prohibited.

SECT. 13. *Be it further enacted,* That any person, who shall lead, ride or drive any horse, mule or other animal upon the tow-path of the canal, or on the bank opposite, shall for each offence, forfeit the sum of three dollars ; excepting, however, persons driving or leading horses or other animals necessary for towing boats and rafts, and also commissioners, or superintendants, who may have occasion to ride on horseback to view and examine any part of said canal, nor shall it be extended to persons necessarily employed in conveying articles or merchandize to go on board any boat, or in conveying articles or merchandize from the same. *Provided also,* That this penalty shall not extend to any horse, mule or other animals which are turned into any pasture or field adjoining said canal for the purpose of grazing therein.

Penalty for driving horses, &c. on tow-path except, &c.

Proviso.

Boats and rafts passing in the night to carry a light on the bow.

SECT. 14. *Be it further enacted,* That every boat or raft passing on the canal in the night time, shall carry a conspicuous light on the bow or forward end of such boat or raft, and in neglect thereof, the person having the charge of such boat or raft, shall be liable for each and every neglect in complying with the above provision, to pay the sum of ten dollars, and be further liable for all damages that may arise in consequence thereof.

Penalty for obstructing navigation of the Canal, or throwing into the same, stones, earth, &c.

SECT. 15. *Be it further enacted,* That if any person shall obstruct the navigation of the canal, by the improper mooring, management or conduct of any boat, or by sinking any boat, or by putting any timber, wood, stone, earth, or other thing into said canal, or by placing any obstruction on the towing-path, or on the bank opposite, or throw into said canal, any carcass, dead animal or putrid substance, he shall for either of the above offences, forfeit the sum of five dollars, and pay the expense of removing the same; and either of the collectors may sell at auction any article of property found as aforesaid, not under the care or charge of any person, after giving notice of such sale, three days prior thereto, at two public places nearest to the place where such article may be found; *Provided,* That if the owner shall appear and claim such article of property prior to the sale thereof, and pay the cost of advertising and removing the same, it shall be delivered up to said owner.

Penalties for taking lumber, &c. from banks of the Canal, and opening bars, &c. without permission.

SECT. 16. *Be it further enacted,* That if any person shall take and carry away, on board any boat without the permission of the owner, any rails, boards, plank, staves, wood, bark, or other property, from the bank or vicinity of said canal, the master or person having the direction of such boat, shall be liable to the owner of the property, so carried away, in an action of trespass to three times the value thereof. And if any boatman or other person passing on or by said Canal, shall throw down any fence, or leave down or open any

bars or gate, he shall forfeit to the owner thereof the sum of two dollars, and be further liable for all damages arising in consequence of such trespass; and said penalty, and damages may be recovered by the person sustaining such damage, in an action or actions, before any Justice or Court having competent jurisdiction thereof.

SECT. 17. *Be it further enacted,* That when any new road or public highway shall be laid out by legal authority, in such direction as to cross the Canal, and require a bridge over the same, the town or persons, under whose authority such bridge may be erected, shall so construct the same as not to interfere with, or in any way obstruct the navigation of said Canal: *Provided however,* That nothing in this Act or any of the Acts to which this is in addition, shall be understood, taken or construed to take away or abridge the rights of any owners of land adjoining the Canal, to erect and repair any bridge or bridges over and across said Canal, of such height as not to obstruct the navigation of the Canal, and to remove the same at pleasure, doing no unnecessary damage to said Canal, and to pass and repass the same bridges to communicate with the lands on each side of the Canal.

Provisions respecting bridges on roads hereafter laid out, crossing the canal.

Proviso.

SECT. 18. *Be it further enacted,* That every person, who shall wantonly, and without the consent of the person having the charge thereof, open or shut any lock-gate, waste-gate, or culvert-gate, or by any means injure the same, so as to prevent the free use thereof, or throw down, destroy or injure any bridge by or over the Canal, shall be adjudged guilty of a misdemeanor and punishable, on indictment and conviction, by fine not exceeding one hundred dollars, or imprisonment in the county jail, not exceeding three months, and be further liable for all damages sustained thereby.

Persons who shall wantonly open or injure lock-gates & destroy bridges, &c. may be punished by fine and imprisonment.

SECT. 19. *Be it further enacted,* That every person, who shall wilfully break, throw down or destroy any lock, bank, waste-wier, dam, aque-

Persons who shall wilfully break or destroy lock, bank, &c. may be punished by fine and imprisonment.

duct, or culvert, or shall dig or bore through any bank, with intention to let off the water from the Canal, or materially injure the same, shall, on indictment and conviction of any or either of said offences, be sentenced to pay a fine not exceeding five hundred dollars, or imprisoned in the county jail or State Prison, not exceeding two years, at the discretion of the court before whom convicted.

What Courts shall have jurisdiction of offences against the provisions of this Act.

SECT. 20. *Be it further enacted,* That all prosecutions for offences against this Act, shall be by indictment before the Court of Common Pleas, or the Supreme Judicial Court; and all forfeitures and penalties in this Act, except where otherwise provided, shall be sued for in the name and for the benefit of the Cumberland and Oxford Canal Corporation, before any Justice of the Peace, or the Municipal Court of the town of Portland, where the sum does not exceed twenty dollars, and for all above that sum, before any court having competent jurisdiction.

Further time allowed for completing the Canal, &c.

SECT. 21. *Be it further enacted,* That a further term of two years, from and after the passing of this Act, shall be, and hereby is allowed to the Cumberland and Oxford Canal Corporation to finish, complete and put in a proper state of repair, their locks and canal. And the report of any Committee, appointed by the Court of Sessions, pursuant to the 14th section of the Act to which this is in addition, that the same is completed, shall be full and legal evidence of that fact, and said corporation, from and after the date of such report, shall have a right to demand and receive toll pursuant to the provisions of said Act.

Committee appointed by the C. of S. to report when same is completed. When right to demand toll shall commence.

SECT. 22. *Be it further enacted,* That said Canal Corporation shall not have the continuing benefit of the provisions of this Act, after the damages shall be ascertained to individuals or corporations, as prescribed by law, unless the said damages, so ascertained, be paid by said Canal Corporation within three months after final judgment

Further provisions as to damages to individuals or corporations.

be rendered for said damages, until said damages are paid.

SECT. 23. *Be it further enacted*, That if any Former acts inconsistent with this act repealed. of the provisions of the Act, to which this is in addition, are inconsistent with the provisions of this Act, the same are hereby repealed.



CHAP. 87.

AN ACT to incorporate the Freeport Wharf Company.

Approved March 10, 1830.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled*, That John A. Hyde, Alfred Soule, William R. Kendall, Edward Cushing, Samuel Bliss, Persons incorporated. Isaac Carver, Rufus Soule, Ambrose Talbot, jun. John Marston, Barnabas Carver, Seth Bailey jun. Charles Lufkin, their associates and successors, be, and hereby are created a body politic and corporate by the name of the Freeport Wharf Company, for the purpose of building such wharves and piers, as may be found necessary, and also for deepening the channel of Harrisickett River, in the town of Freeport, with power by that name to prosecute and defend suits at law; to have a common seal and to change the same at pleasure; to make any by-laws, rules and regulations, for the proper management of their affairs, not repugnant to the laws of this State, to take and hold Powers. any personal and real estate to the value of ten thousand dollars, and to give, grant, bargain or sell the same, with all the powers, privileges and immunities usually granted to similar corporate bodies, *Provided*, That the powers granted by Provisi this Act may be enlarged, restrained or annulled at the pleasure of the Legislature.