

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

THIRTEENTH LEGISLATURE,

AT ITS SESSION COMMENCING JANUARY 2, 1833.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

AUGUSTA:

I. BERRY & CO. PRINTERS TO THE STATE.

1833.

CHAPTER 306.

AN ACT to annex a part of the town of Freeman to New-Portland.

Approved February 7, 1833.

Part annexed described.

Proviso.

Be it enacted by the Senate and House of Representatives, in Legislature assembled, That the farms, owned and occupied respectively by Thomas Pennell and by Nathan Thomas, each containing about one hundred acres, and lying in the town of Freeman, be, and hereby are, set off from said Freeman and annexed to New-Portland. *Provided,* That all taxes heretofore legally assessed upon said Pennell and Thomas, in said town of Freeman, shall be paid therein, in the same manner as if this Act had not been passed.

CHAPTER 307.

AN ACT to incorporate the Bangor and Piscataquis Canal and Rail-road Company.

Approved February 8, 1833.

Names of persons incorporated.

Name of Corporation.

Powers, privileges.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That Moses Greenleaf, Henry W. Fuller, Benjamin P. Gilman, Joseph Lee, Francis Brown, Ebenezer Greenleaf, Stephen Palmer, David Shepherd, Mark G. Pitman and Henry K. Adams, their associates, successors and assigns, be, and they hereby are, made a body politic and corporate, by the name of the Bangor and Piscataquis Canal and Rail-road Company, and shall so continue for the term of fifty years; 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.

SECT. 2. *Be it further enacted,* That the powers of said company shall, except at any legal meeting thereof, be

vested in a board of not less than five Directors, one of whom shall be President, and a majority of whom shall be a quorum. The Directors may be chosen at the first meeting of the company, and afterwards shall be chosen annually, at such time as their by-laws may determine, and, as also all other officers, shall, unless sooner removed, hold their offices for one year, and until others are chosen and qualified in their stead.

SECT. 3. *Be it further enacted,* That the Directors shall annually elect a President, and may elect a Vice President, Secretary, Treasurer and any other officers, as their by-laws may prescribe, and may also remove them at pleasure, and fill all vacancies at any time. The company may also remove Directors and fill vacancies in the Board and any other offices; and limit and direct the exercise of their powers.

SECT. 4. *Be it further enacted,* That said company may survey, lay out and mark, construct, alter, maintain, improve, enlarge, repair and rebuild a Rail-road or roads, with one or more sets of rails or tracks, with all suitable bridges, viaducts, turn-outs, culverts, drains, and all other necessary appendages, to form a line of communication from any place or places on or near the tide waters of Penobscot river, in the town of Bangor, or any other place on said tide waters, to any or all of the quarries or natural deposits of slate in the town of Williamsburgh, either by a continued line of Rail-road, or by interrupted lines connecting with any other natural or artificial communication; *Provided* That they shall not connect their rail-roads with any other artificial communication without the consent of the proprietors thereof; and they may also, either by continued or interrupted lines, construct branches to extend their line of communication to any town or place on or near the waters of the Piscataquis, Sebec, or Pleasant rivers, or their respective branches, and to any other place or places in the counties of Penobscot or Somerset, lying west of Penobscot river, or north of the waters of Pleasant river. And when they shall have finally surveyed and adopted any section or division of their line or lines of

Powers to be vested in a board of Directors.

When Directors shall be chosen.

Term of office.

Directors shall annually elect President, Vice President &c.

May remove them at pleasure and fill vacancies.

Company may remove Directors &c.

Company may lay out and construct a Rail-road &c.

Location.

Proviso.

Description of section adopted shall be filed in the office of the Clerk of the Judicial Courts—

communication, they shall deposit in the office of the Clerk of the Judicial Courts in the County wherein the same lies, a description of the same, which said clerk shall cause to be recorded and kept as other public records of like nature. And, for the purposes aforesaid, and for the convenient accommodation of said Rail-roads and their appurtenances, and of the persons and property which may be transported thereon or connected therewith, the said company may enter upon, take, use and occupy any lands or other real estate which they shall find necessary; and they shall also have right to take, remove and use, for the construction and repair of said Rail-roads and appurtenances, any earth, gravel, stone, timber, or other materials, on or from the land so taken: *Provided*, however, that said land so taken shall not exceed four rods in width, except where greater width is necessary for the purposes of excavation or embankment; and *provided*, also, that, in all cases, said company shall pay for all such lands, estate or materials, so taken and used, such price as they and the respective owners thereof may mutually agree on; and in case the parties shall not otherwise agree, then the said company shall pay such damages as shall be ascertained and determined by the County Commissioners, in the same manner, and under the same conditions and limitations, as are by law provided in the case of damages by the laying out of highways; but this grant shall be void except as to such parts of said Rail-roads or lines of communication as shall be commenced within six years from the passing of this Act, and completed within ten years thereafter. And if the estate of said company, in its corporate capacity, shall not be sufficient to satisfy such damages, then the several Stockholders, each in proportion to his respective number of shares, shall be personally liable for the deficiency.

Said description to be recorded.

Company may take and occupy any lands &c. which they may find necessary.

Proviso.

Proviso.

If parties cannot agree on amount of damages, they shall be determined by the County Commissioners.

Grant to be void except &c.

Company personally liable in certain cases.

Powers, duties and restrictions.

SECT. 5. *Be it further enacted*, That said company shall have power to construct and carry their Rail-roads on, over or across any rivers, streams, bridges, roads, highways, or other roads or ways, and to construct any bridges or viaducts over or under the same; and may raise or lower any public or private road or highway; and, for the pur-

pose of convenience in constructing or repairing the same, may, for a time, turn any stream or water course; but, in all such cases, they shall, as soon as may be, restore such stream or water course to its former passable state, as near as may be, and leave such road or highway in a safe and passable state; and shall, at all reasonable times, maintain and keep in repair, all bridges or viaducts constructed by them over or under such road or highway; and shall pay all damages, if any there be, to any party injured; to be ascertained as in this Act provided in cases of damage by taking land or materials. And they shall in no case construct or carry their road or other works on, over or across any other road or highway in such manner as to prevent, interrupt or impede the travel or transportation thereon; nor shall any other road or works be authorized or allowed to occupy the ground which may be finally adopted by said company for their road or other works, in such manner as to prevent, interrupt or impede the construction, repair and maintenance of said Rail-roads or other works, or the access to, travel, transportation or deposit thereon.

May turn any stream or water course, &c.— shall restore the same.

SECT. 6. *Be it further enacted,* That said company may construct any canals, locks, dams, sluices, inclined planes, machines, booms, or other works which they may judge necessary to improve or facilitate the transportation or communication by water, on the Dead stream, Sebec, or Pleasant rivers, or on any of the branches or waters thereof; and they may use any of the natural lakes, ponds or waters thereof, as parts of their lines of communication; *Provided* That this shall not be taken or construed so as to obstruct or prevent any other person or persons from making any lawful use of the same lakes, ponds or waters; nor to authorize said company to construct any canal in any place westward of the waters of Pleasant river. And all such canals, locks, dams, sluices, inclined planes, machines, booms, or other works, shall be considered as parts of and pertaining to, the Rail-roads or lines of communication of said company; and they shall enjoy the same rights, powers and privileges, and be subject to the same conditions and liabilities in relation thereto, as are in this Act provided in relation to said Rail-roads or their appurtenances.

Company may construct any Canals, Locks &c. on the Dead Stream, Sebec, or Pleasant rivers.

Proviso.

Company shall have power to unite their Rail-roads, or any branches or parts thereof, with those of any other Rail-road or Canal Company, at such points in said counties, and on such terms and conditions as the parties interested may mutually agree on.

Company shall have power to unite their Rail-roads with any other Rail-road &c.

SECT. 7. *Be it further enacted,* That said company shall have power to unite their Rail-roads, or any branches or parts thereof, with those of any other Rail-road or Canal Company, at such points in said counties, and on such terms and conditions as the parties interested may mutually agree on.

May use steam and other engines and machines &c.

SECT. 8. *Be it further enacted,* That said company may procure, purchase and hold in fee simple, improve and use for all purposes of business to be transacted on or by means of said Rail-roads, Canals or other works, any steam or other engines or machines, horses, cars, or other carriages, boats or other vehicles, lands or other real estate, and the same may manage, sell or otherwise dispose of, as they may see fit; they may also regulate and determine the kind and number of carriages or vehicles which may be used on their roads, canals or other works;—the mode of propelling them; the times and rates of speed of their movements; and the conditions on which the same may be used on said roads, canals or other works, and persons and articles of any kind be conveyed on the same: *Provided,* That they shall not be repugnant to the laws of the State.

Proviso.

Mode by which damages claimed for taking materials, lands &c. by virtue of this Act, shall be estimated.

SECT. 9. *Be it further enacted,* That all damages claimed or adjudged for the taking and use of any materials, land or other estate by virtue of this Act, shall be estimated according to the value which they possessed independently of the effect of this Act; and any value which may, by the effect of this Act, be adjudged to be added to the value of any estate, shall be considered and allowed in offset to any damage adjudged to be done to the same estate, so far as to the amount of such damage, but no farther. And, in all legal proceedings, this Act shall be taken and considered to be a public Act. And when the lands or other estate of any infant, or person *non compos mentis*, shall be taken or damaged for the purposes of this Act, the guardian of such infant or person may settle, commute, release and discharge all damages or claims for damage in relation thereto.

SECT. 10. *Be it further enacted*, That if any person shall knowingly and wilfully commit any act by which any part of said Rail-roads, or of the appurtenances or property of said company shall suffer damage, or impediment, or by which the use, improvement, transit or deposit of any property passing or to be transported on any part of said Rail-roads or lines of communication shall be prevented or impeded, or such property injured or destroyed, the person so offending shall pay treble damages to all parties injured.

Persons who shall wilfully injure the property of the Company, shall pay treble damages.

SECT. 11. *Be it further enacted*, That the capital stock of said Company may consist of three hundred thousand dollars, and shall be divided into shares of one hundred dollars each, to be holden and considered as personal estate; and each share shall entitle the owner thereof to one vote, and as many votes as he has shares; and he may vote, either in person or by proxy, in all meetings of the Company; and all questions shall be determined by the majority of votes present, in person or by proxy, at any meetings. And if the Directors shall find that said amount of capital stock shall not be sufficient to complete all the purposes authorized by this Act, they may, by the creation of additional shares of like amount, increase their capital stock to such sum as they may deem necessary to complete said purposes; and the holders of the original shares shall severally have right to subscribe for and hold such additional shares in proportion to the number of original shares by each respectively holden; or they may be otherwise disposed of, as the majority of the company, at any legal meeting, may determine.

Capital stock shall consist of \$300,000, to be divided in shares of \$100 each.

Each share entitled to one vote.

Directors may by creating additional shares, increase their Capital Stock if &c.

SECT. 12. *Be it further enacted*, That the President and Directors shall, from time to time, prescribe the form of the evidence or certificates of shares, and the manner and conditions of transferring the same; and all certificates or other evidence of shares and of transfers of the same, shall be recorded on the books of the company; and no transfer of shares shall be deemed complete, and valid as against creditors, until the evidence thereof shall be filed with the recording officer of the Company. All shares

President and Directors shall prescribe the form of the evidence of shares &c.

shall be liable to all legal process, in the same manner as shares in Turnpike or Bridge corporations are by law liable.

Amount of assessments to be prescribed by President and Directors &c.

SECT. 13. *Be it further enacted*, That the President and Directors may, from time to time, make and prescribe the amount of assessments to be paid on each share, and the time and manner of payment; but they shall in no case make assessments greater than, with all preceding assessments, shall be sufficient to make up in the whole the sum of one hundred dollars on each share; and in case the assessments due on any share shall not be paid within ninety days from the time of such reasonable notice as shall be prescribed in the by-laws, then such share, with all the sums and assessments which shall previously have been paid thereon, shall be forfeited to the use of the company, and may be sold at public auction, or otherwise disposed of, as the company shall see fit.

Company shall have power to establish and collect tolls.

SECT. 14. *Be it further enacted*, That said Company shall have power, from time to time, to establish, alter, demand, collect and receive such rates of tolls for the right or permission of persons, goods, wares, merchandize, or any articles to use, pass or be transported on said Railroads, Canals, Locks, Sluices or Inclined Planes, or on any parts or branches thereof; and they may graduate, commute and regulate the same from time to time as they see fit; and they shall have a lien on all articles transported on said Roads, Canals or other works, for the payment of all tolls and expenses of transportation: *Provided*, however, that the rates of said tolls shall be so graduated as not to exceed an average rate of twenty cents per ton per mile for any distance of five miles, nor an average of fifteen cents per ton per mile for the whole length of said roads: And *provided* also, that at any time after ten years from the completion of said roads, the Legislature may reduce or increase said rates of tolls at its pleasure. And when said Railroads or other works shall be completed and in operation, the Treasurer of said Company shall, on or before the first day of February then next, and also annually thereafter, deposit in the office of the Secretary of State,

Shall have a lien on all articles for toll and expenses of transportation.

Proviso.

Proviso.

Treasurer of Company shall file in the office of Secretary of State a state-

a true statement, under oath or affirmation, of the amount of capital stock paid in, expenditures, debts, and pecuniary liabilities of said Company, and of the net proceeds of said tolls, for the time or year preceding; and in default thereof shall pay, to the use of the State, such penalty, not exceeding five hundred dollars, as the Supreme Judicial Court may determine. And the books, accounts, and records of the Company shall at all times be open to the inspection of any Committee appointed by the Legislature to examine the same.

ment under oath of amount of Capital Stock &c.

The Books &c. of the Company shall be open to inspection of Committee appointed by the Legislature to examine them.

SECT. 15. *Be it further enacted,* That nothing in this Act contained shall be taken or construed to prevent the Legislature at any time from incorporating or authorizing any other Rail-road or canal company, to construct any Rail-road, canal or other works similar to those allowed to said Company to construct, nor to prevent any County Commissioners or Selectmen of towns from laying out any public or private road or way.

How this Act shall be construed.

CHAPTER 308.

AN ACT to incorporate the Proprietors of the Island Wharf.

Approved February 9, 1833.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That John Madigan and Matthew Cottrill, with their associates and successors, be and they hereby are incorporated into a company, by the name of the Proprietors of the Island Wharf, for the purpose of rebuilding and maintaining a wharf in the town of New Castle, with power by that name to prosecute and defend suits at law; have a common seal; make by-laws for the management of their concerns, not repugnant to the laws of the State; take and hold such estate, real and personal, as may be necessary for the purposes aforesaid; and exercise and enjoy all the powers incident to similar Corporations.

Names of persons incorporated.

Privileges &c.

May hold Real and Personal Estate.