

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL

ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

FOURTEENTH LEGISLATURE,

At its Session, held in January, 1834.

PUBLISHED AGREEABLY TO THE RESOLVE OF JUNE 28, 1820.

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1834.

CHAPTER 503.

AN ACT to incorporate the Kenduskeag Canal Corporation.

Approved March 11, 1834.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That William Bradbury, Benjamin Garland, Mark Trafton, Isaac Hodsden, Rufus Parks, Samuel Ramsdell, Romulus Haskins, Thomas A. Hill, John Bradbury and John C. Dexter, with their associates and successors, be and they hereby are incorporated into a body politic by the name of the Kenduskeag Canal Corporation, with power to sue and be sued; to have a common seal; to make any by-laws for the management of their affairs, not repugnant to the laws of this State.

Names of persons incorporated.

Powers, privileges, &c.

SECT. 2. *Be it further enacted,* That said corporation shall have power to survey, lay out and make a canal from the head waters of the Kenduskeag Stream, and its principal branches to the Six Mile Falls so called, in Bangor in the county of Penobscot, or on such parts of said route as the said proprietors may deem proper with a suitable number of locks or sluices, to commence at such points on the said head waters, pass in such direction and terminate at such place at or near said Six Mile Falls as they may designate; and they shall have power to take and use such land along the course of said canal as shall be necessary for the purposes aforesaid, not exceeding ten rods in width; *Provided,* That, in all cases, said company shall pay for all such lands so taken and used, such price as they and the owners thereof may mutually agree on. And in case the Bangor and Pushaw Canal Company should not locate and make their canal, by said Six Mile Falls, so as to connect the same with the Canal herein granted, it shall be and hereby is permitted the said Proprietors hereof to extend their said canal down said stream to the tide waters thereof—And if the estate of said company in its corporate capacity, shall not be sufficient to satisfy such

Authorized to survey, lay out and make canal from head waters of Kenduskeag stream to six mile falls in Bangor.

Proviso.

Stockholders personally liable

for damages if corporate property is not sufficient.

damages, then the stockholders, each in proportion to his respective number of shares, shall be personally liable for such deficiency — And said corporation may purchase and hold other land and buildings not exceeding two hundred

Amount of real and personal estate.

thousand dollars in value, and any personal estate not exceeding Three Hundred Thousand Dollars in value, and the said real and personal estate or any part thereof, they may sell and transfer.

Corporation may use the waters of the Kenduskeag stream.

SECT. 3. *Be it further enacted*, That for the purposes aforesaid, the said corporation shall have power to take and use the waters of said Kenduskeag Stream and of any other convenient stream or streams on the route of said canal ; and may erect dams, sluices, or other works that may be necessary — *Provided*, That the said corporation shall not take the water of any stream to the detriment

Proviso.

Proviso.

of any water privileges belonging to any other person or persons ; *and provided* that such dams on said Kenduskeag Streams shall be so constructed as not to obstruct the passage of logs or other lumber down the same, *and provided* that said corporation shall not draw water from said stream to the injury of mills and other machinery which are or may be built on the same, without said corporation paying a just compensation therefor.

Proceedings when damages cannot be agreed on by the parties.

SECT. 4. *Be it further enacted*, That if any person or persons shall suffer damage by the exercise of the power herein granted to said corporation, and the amount or mode of ascertaining the amount cannot be agreed upon by the parties, the Court of Common Pleas for the county of Penobscot shall, on petition by the party aggrieved, which petition shall be served on said corporation thirty days at least before the sitting of said Court by leaving an attested copy thereof with the President or Secretary of said corporation, cause said damages to be ascertained by a committee of three disinterested freeholders of the same county.

Proviso.

Provided however, That if either party be dissatisfied with the award of said committee and shall at the term when said award is presented apply to said court for a trial by Jury in the manner other like cases are determined, the

Court shall by Jury determine the amount of such damages accordingly—And if the verdict do not give the party applying for the Jury greater damages than were awarded by the committee, judgment shall be rendered against the applicants for the costs accruing after said application—And if the verdict be more favorable to the party applying for a Jury than was awarded by the committee, the applicants shall recover the costs accruing after such application, and execution shall in either case issue upon the judgment.

Costs, where to be allowed, on appeal.

SECT. 5. *Be it further enacted,* That if any person or persons shall wilfully or maliciously take up, remove, or injure any part of said Canal, dams, locks, sluices, mills, or other works or appendages thereof, such person or persons for every such offence, shall forfeit and pay to said Corporation treble damages; to be sued for and recovered in any Court competent to try the same; and such offender or offenders shall further be liable to indictment for such trespass or trespasses, and on conviction thereof before the Supreme Judicial Court or Court of Common Pleas, shall be sentenced to a fine or imprisonment at the discretion of the Court.

Penalty for wilfully injuring property of corporation.

Offenders liable to indictment.

SECT. 6. *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 to wit: For all planks, boards, joists or other sawed lumber, floated in rafts or otherwise, through said Canal, eight cents per mile for each thousand feet, board measure; for clapboards, ten cents per thousand, for each mile; shingles one cent per thousand for each mile; staves ten cents per thousand, for each mile; cord wood and bark eight cents per cord, for each mile; and for all other lumber in proportion to the above rates, per quantity or bulk; for all kinds of country produce, provisions, goods or merchandize, five cents per ton, for each mile; for all boats or rafts ten cents for each lock, the same may pass, in addition to the toll aforesaid; which toll shall commence and be payable when any part of said canal, locks or sluices shall be pas-

Rates of toll granted.

May detain property till paid, or recover the same in an action of debt.

sable for the articles aforesaid ; and the said Corporation shall have a lien upon the same articles, and shall have the power to detain the same for the toll aforesaid, until the same be paid ; or the said Corporation may sue for and recover the same, by an action of debt, in any Court proper to try the same.

This Act to be deemed a public act.

SECT. 7. *Be it further enacted*, That this Act in all legal proceedings shall be deemed and taken to be a public Act—*Provided*, If said Corporation shall not make and complete said canal, locks or sluices within three years from the passing of this Act, then this Act shall be void—*Provided also*, That said Corporation shall within two years from the passage of this Act, determine upon and locate the route of said canal and enter the same upon their records and shall be bound by such location.

Proviso.

Mode of calling first meeting.

SECT. 8. *Be it further enacted*, That any three or more of the persons named in this Act may call the first meeting of those incorporated, by causing notice to be given of the time, place and purpose thereof, in any newspaper printed in Bangor, ten days previous to said meeting, and at said meeting may proceed to organize said Corporation; may make and adopt by-laws, designate and choose its officers, determine their qualifications and define their powers and duties ; may fix on the mode of calling future meetings and the manner of voting at said meetings; may agree upon the number of shares into which the capital stock shall be divided, the evidence of ownership thereof and the manner of transferring the same ; may make assessments, and do all other things that may be necessary for the management of the concerns of said Corporation—And all shares shall be liable to legal process in the same manner as shares in Turnpike or Bridge Corporations are by law liable.

Proceedings at said meeting.