

MAINE STATE LEGISLATURE

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PRIVATE AND SPECIAL ACTS

OF THE

STATE OF MAINE,

PASSED BY THE

SIXTYEIGHTH LEGISLATURE,

At its Session, held in January, 1836.

Published agreeably to the Resolbe of June 28, 1820.

AUGUSTA:

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1836.

Chapter 179.

AN ACT to establish the Maine, New Hampshire, and Massachusetts Rail Road Corporation.

Approved March 30, 1836.

Name of Corporation.

Corporate name.

Powers and privileges.

SECT. 1. *Be it enacted by the Senate and House of Representatives, in Legislature assembled,* That Joseph Adams, Mason Greenwood, Oliver B. Dorrance, Charles M. Davis, William W. Woodbury, Nathan Winslow, Jediah Jewett, Henry Smith, John Warren, Bryce M. Edwards, Daniel T. Pierce, Noah Mason, Toppan Robie, Joseph M. Gerish, James Irish, Alexander McLellan, Nathan Elden, Joseph Woodman, Abijah Usher, Joseph Hobson, Ellis B. Usher, Nathaniel J. Miller, Edmund Warren, William Cook, Isaac Dearing, Jeremiah Roberts, Porter Gilman, Jonathan Downing, Ivory Hall, Nathaniel Farnum, John Griffin, Joseph Emerson, Jeremiah Bradbury, William B. Holmes, Abiel Hall, David Hall, Alvah Conant, Jeremiah Goodwin, Benjamin J. Herrick, John Powers, Nicholas E. Paine, John J. Paine, Arthur McArthur, Charles E. Bartlett, Thomas B. Parks, Job Harris, John B. Wood, Frederick Cogswell, their associates, successors and assigns be, and they are hereby made a body politic and corporate, by the name of "the Maine, New Hampshire and Massachusetts Rail Road Corporation," and by that name shall have all the powers, privileges and immunities, and be subject to all the duties and liabilities provided and prescribed in an Act passed on the sixteenth of February last, entitled "an Act concerning Corporations," and an Act defining certain rights and duties of Rail Road Corporations, passed the first of March instant, and shall be and hereby are invested with all the powers, privileges and immunities, which are or may be necessary to carry into effect the purposes and objects of this Act as hereinafter set forth. And the said Corporation are hereby authorized and empowered to locate, construct, and finally complete, alter and keep in repair a Rail Road with one or more set of rails or tracks, with all suitable bridges,

viaducts, turnouts, culverts, drains, and all other necessary appendages, from some point or place in the City of Portland, through the village of Saccarappa in the Town of Westbrook, thence into the village of Gorham, thence through the town of Buxton to Saco River, and to cross said River at some place as hereinafter provided; thence through the towns of Hollis and Waterborough to Alfred village, thence through the towns of Sanford, North-Berwick and Berwick to the village of Great Falls in Somersworth and to unite with the Rail Road from said Great Falls through New Hampshire to Massachusetts line, in such manner and form as they shall deem to be most expedient. And for this purpose said Corporation shall have the right to take and hold so much of the land, and other real estate of private persons as may be necessary for the location, construction and convenient operation of their Rail Road and they shall also have the right to take, remove and use for the construction and repair of said Rail Road 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 purpose of excavation or embankment: *And provided, also,* that in all cases, said Corporation shall pay for such lands, estate or materials so taken and used, such price as they and the owner, or respective owners thereof may mutually agree on; and in case said parties shall not otherwise agree, then said Corporation shall pay such damages as shall be ascertained and determined by the County Commissioners for the County where such land or other property may be situated, in the same manner and under the same conditions and limitations, as are by law provided in the case of damages by laying out of highways. And the land so taken by said Corporation shall be held as lands taken and held for public highways. And no application to said Commissioners to estimate said damages shall be sustained, unless made within three years from the time of taking such land or other property; or when it has already been taken, within one year from the time of pas-

May take and hold land of private persons, for construction of said road.

Proviso:

Shall pay for all property so taken.

Procedure in case of disagreement in amount of damages.

Lands taken—how held.

Damages to be called for within three years.

Powers, &c.

sing this Act, and in case such Rail Road shall pass through any woodlands or forests, the said Company shall have the right to fell or remove any trees standing therein, within four rods from such road, which by their liability to be blown down or from their natural falling might obstruct or impair said Rail Road, by paying a just compensation therefor, to be recovered in the same manner as is provided for the recovery of other damages in this bill.

Road shall cross Saco river at, &c

SECT. 2. *Be it further enacted,* That said Rail Road shall pass over Saco River in such place at or near the falls at the Bar Mills, or at or near the falls at Salmon Falls or at some intermediate point between, as said Commissioners or a majority of them shall determine, and said Corporation is hereby authorized and empowered to locate, construct and finally complete, alter and keep in repair a branch or branches of said Rail Road from either or both of said Falls to said principal Rail Road, which may unite therewith and become a part thereof.

May make branch of said road.

Number of shares
—Government,
&c

SECT. 3. *Be it further enacted,* That the Capital Stock of said Corporation shall consist of not less than five thousand, nor more than six thousand shares; and the immediate government and direction of the affairs of said Corporation shall be vested in seven, nine or thirteen Directors, who shall be chosen by the members of said Corporation, in the manner hereinafter provided, and shall hold their offices until others shall have been duly elected and qualified to take their places, a majority of whom shall form a quorum for the transaction of business; and they shall elect one of their number to be the President of the Board, who shall also be the President of the Corporation; and shall have authority to choose a Clerk who shall be sworn to the faithful discharge of his duty, and a Treasurer, who shall give bonds to the Corporation, with sureties to the satisfaction of the Directors, in a sum of not less than thirty thousand dollars, for the faithful discharge of his trust. And for the purpose of receiving subscriptions to the said stock, books shall be opened under the direction of the persons named in the first section of this Act, at such time and in such places in the shire towns in

Directors may choose Clerk and Treasurer.

Books to be opened for subscriptions.

the several counties of York, Cumberland and Oxford, in this State, and in the towns of Somersworth, Dover, New Market and Exeter in New Hampshire, and Haverhill and Andover, and the City of Boston in Massachusetts, and elsewhere as they shall appoint, to remain open for ten successive days, at which time and place of subscription public notice shall be given in some newspaper printed in Portland, Great Falls, Dover, Haverhill, Exeter and Boston, twenty days at least, previous to the opening such subscription, and in case the amount subscribed shall exceed six thousand shares, the same shall be distributed among all the subscribers, according to such regulations, as the persons having charge of the opening of the subscription books shall prescribe before the opening of said books. And any seven of the persons named in the first section of this Act, are hereby authorized to call the first meeting of said Corporation by giving notice in one or more newspapers published in the towns and cities above named, of the time and place, and the purpose of such meeting, at least twenty days before the time mentioned in such notice.

Manner of calling first meeting.

SECT. 4. *Be it further enacted,* That the President and Directors for the time being, are hereby authorized and empowered by themselves or their agents, to exercise all the powers herein granted to the Corporation, for the purpose of locating, constructing, and completing said Rail Road, and for the transportation of persons, goods and property of all descriptions, and all such power and authority for the management of the affairs of the Corporation, as may be necessary and proper to carry into effect the objects of this grant; to purchase and hold land, materials, engines and cars, and other necessary things, in the name of the Corporation for the use of said road, and for the transportation of persons, goods and property of all descriptions; to make such equal assessments from time to time, on all the shares in said Corporation, as they may deem expedient and necessary, in the execution and the progress of the work, and direct the same to be paid to

Powers of President and Directors.

Treasurer shall give notice of assessments.

the Treasurer of the Corporation. And the Treasurer shall give notice of all such assessments; and in case any subscriber or stockholder shall neglect to pay any assessment on his share or shares for the space of thirty days after such notice is given as shall be prescribed by the laws of said Corporation, the Directors may order the Treasurer to sell such share or shares, at public auction, after giving such notice as may be prescribed as aforesaid, to the highest bidder, and the same shall be transferred to the purchaser, and such delinquent subscriber or stockholder shall be held accountable to the Corporation for the balance, if his share or shares shall sell for less than the assessments due thereon, with the interest, and costs of sale; and shall be entitled to the overplus if his share or shares shall sell for more than the assessments due, with interest and costs of sale; *Provided however*, That no assessments shall be laid upon any shares in said Corporation of a greater amount in the whole, than one hundred dollars.

Assessments not paid, shares may be sold for same.

Proviso.

May make by-laws, &c.

SECT. 5. *Be it further enacted*, That the said Corporation shall have power to make, ordain and establish all necessary by laws and regulations, consistent with the Constitution and the laws of this State, for their own government and for the due and orderly conducting of their affairs, and the management of their property.

May establish a toll,

SECT. 6. *Be it further enacted*, That a toll be and hereby is granted and established, for the sole benefit of said Corporation, upon all passengers, and property of all descriptions, which may be conveyed or transported, upon said road, at such rates per mile, as may be agreed upon and established from time to time by the Directors of said Corporation. The transportation of persons and property—the construction of wheels, the form of cars and carriages, the weight of loads, and all other matters and things in relation to the use of said road shall be in conformity with such rules, regulations and provisions as the Directors shall from time to time prescribe and direct; *Provided however*, That if at the expiration of twelve years from and

after the completion of said road, the net income or receipts from tolls and other profits, taking the twelve years aforesaid as the basis of calculation, shall have amounted to more than twelve per cent. per annum upon the cost of the road and incidental expenses, the Legislature may alter and reduce the rate of tolls, and other profits, so that the net income shall not exceed twelve per cent. for the next twelve years, calculating the amount of transportation on the road to be the same, as in the twelve preceding years, and at the expiration of every twelve years thereafter, the same proceedings may be had. *And further provided*, That the Legislature shall not at any time, so reduce the tolls and other profits, as to produce less than twelve per centum upon the cost of said Rail Road, taking the basis of calculation as aforesaid, without the consent of said Corporation. *And provided further* that the Legislature may, instead of reducing said tolls and profits to twelve per cent. appropriate the surplus to the public schools of the State.

Legislature may reduce tolls, in certain cases.

SECT. 7. *Be it further enacted*, That the Legislature may authorize any other company or companies to connect any other Rail Road or Rail Roads with the Rail Road of said Corporation at any points of intersection on the route of said Rail Road. And said Corporation shall receive and transport all persons, goods and property, of all descriptions, which may be carried and transported, to the Rail Road of said Corporation, on such other Rail Roads as may be hereafter authorized to be connected therewith, at the same rates of toll and freight, as may be prescribed by said Corporation, so that the rates of freight and toll on such passengers, goods, and other property as may be received from such other Rail Roads, so connected with said Rail Road as aforesaid, shall not exceed the general rates of freight and toll on said Rail Road received for freight and passengers, &c. at any of the depots of said Corporation.

Other rail roads may be connected with said rail road.

Rates of toll further regulated.

SECT. 8. *Be it further enacted*, That the Directors of said Corporation for the time being are hereby authorized to erect toll houses, establish gates, appoint toll gatherers

Directors may erect toll houses, &c.

and demand toll on the road, when completed, and upon such parts thereof as shall from time to time be completed.

Guardians may agree and settle with Corporation in certain cases.

SECT. 9. *Be it further enacted,* That when said Corporation shall take any land, or other estate, as aforesaid, of any infant, person non compos mentis, or feme covert, whose husband is under guardianship, the guardian of such infant, or person non compos mentis, and such feme covert, with the guardian of her husband shall have full power and authority to agree and settle with said Corporation, for damages, or claims for damages, by reason of taking such land and estate aforesaid, and give good and valid releases and discharges therefor.

Penalty for obstructing or injuring said road.

SECT. 10. *Be it further enacted,* That if any person shall wilfully and maliciously, or wantonly and contrary to law, obstruct the passage of any carriage on said Rail Road, or in any way spoil injure or destroy said Rail Road, or any part thereof, or any thing belonging thereto, or any material or implements to be employed in the construction or for the use of said road, he, she, or they, or any person or persons, assisting, aiding, or abetting such trespass, shall forfeit and pay to said Corporation for every such offence, treble such damages as shall be proved before the Justice, Court or Jury, before whom the trial shall be had, to be sued for before any Justice, or in any Court proper to try the same, by the Treasurer of the Corporation, or other officer, whom they may direct, to the use of said Corporation. And such offender or offenders shall be liable to indictment by the Grand Jury of the County, within which trespass shall have been committed, for any offence or offences, contrary to the above provisions, and upon conviction thereof before any Court competent to try the same, shall pay a fine not exceeding one hundred dollars, to the use of the State, or may be imprisoned for a term not exceeding one year, at the discretion of the Court before whom such conviction may be had.

Annual meeting, first Monday in June.

SECT. 11. *Be it further enacted,* That the annual meeting of the members of said Corporation shall be holden, on the first Monday in June, at such time and place as the

Directors for the time being shall appoint, at which meeting, the Directors shall be chosen by ballot, each proprietor being entitled to as many votes as he holds shares, and the Directors are hereby authorized to call special meetings of the stockholders, whenever they shall deem it expedient and proper, giving such notice as the Corporation by their by laws shall direct.

SECT. 12. *Be it further enacted*, That if the said Rail Road, in the course thereof, shall cross any private way, the said Corporation shall so construct said Rail Road as not to obstruct the safe and convenient use of such private way; and if the said Rail Road shall, in the course thereof, cross any canal, turnpike, rail road, or other highway, the said Rail Road shall be so constructed as not to obstruct the safe and convenient use of such canal, turnpike or other highway; and the said Corporation shall have power to raise or lower such turnpike, highway or private way, so that the said Rail Road, if necessary may conveniently pass under or over the same, and erect such gate or gates thereon, as may be necessary for the safety of travellers on said turnpike, rail road, highway or private way.

Rail Road not to obstruct any road or canal.

SECT. 13. *Be it further enacted*, That if the said Corporation shall not have been organized, and the location according to actual survey of the route filed with the County Commissioners of the Counties through which the same shall pass, on or before the thirty first day of December, in the year of our Lord one thousand eight hundred and thirty nine, or if the said Corporation shall fail to complete said Rail Road on or before the thirty first day of December, in the year of our Lord one thousand eight hundred and forty six, in either of the above mentioned cases, this Act shall be null and void.

Organization and completion.

SECT. 14. *Be it further enacted*, That said Rail Road Corporation shall constantly maintain in good repair all bridges with their abutments and embankments, which they may construct for the purpose of conducting their Rail Road over any canal, turnpike, highway or private way, or for conducting such private way or turnpike over said Rail Road.

Shall keep in good repair all bridges, &c.

May erect bridges
over navigable
waters.

SECT. 15. *Be it further enacted*, That if said Rail Road shall in the course thereof, cross any tide waters, navigable rivers or streams, the said Corporation be and they hereby are authorized and empowered to erect for the sole and exclusive travel on their said Rail Road, a bridge across each of said rivers or streams, or across any such tide waters; *Provided*, said bridge or bridges shall be so constructed as not to obstruct or impede the navigation of said waters.

Books at all times
to be open to in-
spection of Gov-
ernor and Coun-
cil.

SECT. 16. *Be it further enacted*, That the books of said Corporation shall at all times be open to the inspection of the Governor and Council, and of any Committee duly authorized by the Legislature: and at the expiration of every twelve years the Treasurer of said Corporation shall make an exhibit under oath to the Legislature, of the net profits derived from the income of said Rail Road.

SECT. 17. *Be it further enacted*, That an Act entitled "an Act concerning Corporations" passed March seventeenth, in the year of our Lord one thousand eight hundred and thirty one, shall not extend or apply to the Company hereby incorporated.

Holden to trans-
port mail, &c.

SECT. 18. *Be it further enacted*, That the said Corporation shall at all times, when the Post Master General shall require it, be holden to transport the mail of the United States from and to such place or places on said road as required for a fair and reasonable compensation. And in case the Corporation and the Postmaster General shall be unable to agree upon the compensation aforesaid, the Legislature of the State shall determine the same.