

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES,

PASSED BY THE

TWENTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE,

JANUARY SESSION, 1841.

Published by the Secretary of State, agreeably to Resolves
of June 28, 1820, and February 26, 1840.

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1841.

PUBLIC AND SPECIAL LAWS
OF THE
STATE OF MAINE.
1841.

[supplied from page 289 of volume]

tioners ought to be heard touching the matter set forth in their petition, shall, before having any further proceedings thereon, order the petitioners to give notice of the pendency of their petition, and of the time and place appointed to consider the same and adjudicate thereon, by causing the owner or owners of said lands, over which said highway is or may be located, (if known,) to be served with an attested copy of their petition and the commissioners' order thereon, fourteen days at least before the time so appointed: and, if said owners are unknown, then notice shall be given them by publishing said petition, and the commissioners' order thereon, for the term of six weeks in the State paper, the last publication to be thirty days, at least, before the time appointed to consider the same as aforesaid. And no proceeding affecting the rights of said owners shall be had, until such order of notice shall have been complied with.

SECT. 2. *Be it further enacted,* That any person or persons, corporation or corporations, aggrieved by any decision, adjudication or decree of any court of county commissioners within this State, may appeal to the justices of our supreme judicial court, who are hereby vested with appellate jurisdiction, with full power to revise, affirm, modify or annul the same, as justice to the parties and the public good may require, and discretionary power in regard to awarding costs: *Provided, however,* such appeal shall not be sustained, unless the clerk of the judicial courts in such County be notified that an appeal is claimed, within ten days from the publication of such decision, adjudication or decree, and requested to make record thereof.

[Approved April 17, 1841.]

Chapter 197.

AN ACT to establish the Portland and Oxford Rail-road Company.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That Samuel Jordan, John Rand, Zenas Libby, Samuel

Appeal allowed in all cases, from the commissioners to the supreme judicial court.

Corporators.

Knight, Enoch Moody, Eli Webb, William Stewart Jr., Charles Blake, John Elder, J. W. Appleton, J. B. Brown, T. C. Hersey, Daniel F. Emery, Samuel Whittier, F. Tinkham, St. J. Smith, T. R. Jones, John Dow, E. F. Beal, H. H. Boody, Nath'l Shaw, William Willis, Oliver Gerrish, Nathan Cummings, E. A. Norton, Levi Sawyer, Levi Morrill, their associates, successors and assigns, be and they are hereby made a body politic and corporate, by the name of the Portland and Oxford Rail-road Company, 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 day of February, eighteen hundred and thirty-six, entitled "an Act concerning corporations," and an Act defining certain rights and duties of rail-road corporations, passed the first day of March, eighteen hundred and thirty-six, 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 or near the city of Portland, and to terminate at or near the village of Norway, Oxford County, with the privilege of running through the intermediate towns. 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,

Corporate name

—powers and privileges.

Route.

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

Proviso.

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 passing 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 Act.

SECT. 2. *Be it further enacted,* That the capital stock of said corporation shall consist of not less than five thousand nor more than ten thousand shares. And the immediate government and direction of the affairs of said corporation, shall be vested in nine 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 said board, who shall

Shall pay for property so taken.

County Commissioners to estimate damages, in case of disagreement.

Land taken, how held.

Claim for damages to be made within 3 years.

—one year.

Powers, &c.

Liabilities.

No. of shares.

Government, &c.

Tenure of office.

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 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 as they shall appoint, in the Counties of Cumberland and Oxford, to remain open for ten successive days, of which time and place of subscription public notice shall be given in some newspaper, published in Portland, twenty days at least previous to the opening of such subscription, and in case the amount subscribed shall exceed ten 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 city of Portland, of the time and place and the purpose of such meeting, at least twenty days before the time mentioned in such notice.

Clerk to be sworn.
 Treasurer to give bond.
 Penal sum, \$30,000.
 Books to be opened for subscriptions.
 —places where.
 —for ten days.
 Notice of, how given.
 Excess of shares subscribed for, how divided.
 First meeting, how called.
 President and directors, powers of.

SECT. 3. *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 trans-

portation 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 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 by-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 assessment 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.

Treasurer to give notice of assessments.

Assessments not paid, shares may be sold.

--mode of sale.

--deficiency to be paid.

--entitled to overplus.

Proviso.

May make by-laws, &c.

SECT. 4. *Be it further enacted,* That 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. 5. *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 rate 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 forms of cars and carriages, the weights 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.

—or may appropriate surplus to public schools.

SECT. 6. *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

Other rail-roads may be connected.

—terms and conditions,

—and rates of tolls regulated.

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 deposits of said corporation.

Directors may erect toll-houses &c.

SECT. 7. *Be it further enacted*, That the directors, for the time being, are hereby authorized to erect toll houses, establish gates, appoint toll-gatherers, and demand toll on the road when completed, and upon such parts thereof as shall, from time to time, be completed.

Guardians may settle for lands taken, in certain cases.

SECT. 8. *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 such 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, &c., rail-road.

SECT. 9. *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 anything belonging thereto, or any materials 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 provis-

—to pay treble damages—

—and liable to indictment, &c.

ions, 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.

SECT. 10. *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 public notice as the corporation by their by-laws shall direct.

Annual meeting, first Monday in June.

Directors, how chosen.

—may call special meetings.

—how called.

SECT. 11. *Be it further enacted,* That if said rail-road, in the course thereof, shall cross any private way, 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 travelers on said turnpike, rail-road, highway or private way.

Rail-road not to obstruct any road or canal, &c.

SECT. 12. *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 first day of January, in the year of our Lord one thousand eight hundred and forty-four, or if said corporation shall fail to complete said rail-road on or before the first day

Organization and location by Jan. 1, 1844.

Completion by Jan. 1, 1848.

of January, eighteen hundred and forty-eight, in either of the above mentioned cases this Act shall be null and void.

Shall keep in repair bridges, &c.

SECT. 13. *Be it further enacted,* That said 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.

May erect bridges over navigable waters.

SECT. 14. *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 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.

Proviso.

Books to be open to inspection of Governor and Council, and committee of Legislature.

SECT. 15. *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.

Treasurer to make return to Legislature.

Exempt from Act of March 17, 1831.

SECT. 16. *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.

Shall transport mail, &c.

SECT. 17. *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 Post Master General shall be unable to agree upon the compensation aforesaid, the Legislature of the

—compensation for, how to be fixed.

State shall determine the same; and said corporation, after they shall commence the receiving of tolls, shall be bound at all times to have said rail-road in good repair, and a sufficient number of suitable carriages and vehicles for the transportation of persons and articles, and be obliged to receive at all proper times and places and convey the same, when the appropriate tolls therefor shall be paid or tendered, and a lien is hereby created on all articles transported for said tolls.

Shall keep rail-road in good repair.
—and convey, &c., persons, &c.
Lien for tolls.

[Approved April 17, 1841.]

Chapter 198.

AN ACT to apportion and assess on the inhabitants of this State a tax of two hundred one thousand six hundred eighty-three dollars fifty-three cents.

SECTION 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled, That each city, town, plantation, or other place, hereinafter named, within this State, shall be assessed and pay the several sums with which they respectively stand charged, viz:*

COUNTY OF YORK.

Acton,	Five hundred seventy-nine dollars twelve cents,	579 12
Alfred,	Six hundred seven dolls. ninety-three cts.	607 93
Berwick,	Five hundred seventy-eight dollars sixty-one cents,	578 61
Biddeford,	Nine hundred forty-three dollars eighty cents,	943 80
Buxton,	Ten hundred sixty-one dollars two cents,	1,061 02
Cornish,	Four hundred sixty-seven dollars eighty-six cents,	467 86
Eliot,	Six hundred ninety-one dollars eighty-two cents,	691 82
Hollis,	Eight hundred forty-three dollars thirty-nine cents,	843 39
Kennebunk,	Twelve hundred ninety dollars,	1,290 00
Kennebunk Port,	Thirteen hundred nine dollars sixty-eight cents,	1,309 68
Kittery,	Six hundred twenty-nine dollars fifty-three cents,	629 53
Lebanon,	Eight hundred thirty-nine dollars eighty-four cents,	839 84