

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

PASSED BY THE

TWENTY-FOURTH LEGISLATURE

OF THE

S T A T E O F M A I N E ,

A. D. 1844.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840, and March 16, 1842.

AUGUSTA:

W^M R. SMITH & Co., PRINTERS TO THE STATE.

1844.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1844.

Chapter 145.

CHAP. 145.

AN ACT to annex part of Franklin plantation to the town of Sumner.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

The territory comprising the farm or land occupied or owned by Lot Hall, in Franklin plantation, in the county of Oxford, together with the inhabitants thereon, are hereby annexed to the town of Sumner, in said county.

Farm of Lot Hall
annexed to town
of Sumner.

[Approved February 22, 1844.]

Chapter 146.

AN ACT to establish the Bath and Portland Rail Road Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. James McLellan, George Patten, William Richardson, Thomas D. Robinson, Levi Haughton, John Patten, Joseph Sewall, William M. Rogers, Thomas M. Reed, Moses Riggs, Bernard C. Bailey, David C. Magoun, John Henry, Robert H. McKown, Jacob Robinson, William D. Sewall, Oliver Moses and Scott Morse, their associates, successors and assigns, are created a

Corporators:

body politic and corporate by the name of the Bath and Portland 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 chapter eighty-one of the revised statutes, 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 sets of rails or tracks, with all suitable bridges, viaducts, turnouts, culverts, drains and all other necessary appendages, from some point or place in the town of Bath, through the towns of West Bath, Brunswick, Freeport, to a point north of the academy, in North Yarmouth, through Cumberland, Falmouth and Westbrook, to some place in or near the city of Portland. 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 have also the right to take, remove and use, for the construc-

Corporate name:

Duties and liabilities.

Authorized to construct a rail road from Bath to Portland.

Description of said road.

Powers and privileges for constructing such rail road.

CHAP. 146.

Proviso.

Further proviso, that all estate and materials taken or used shall be paid for.

Value may be determined by county commissioners.

Application for damages to be made within three years.

Powers to construct road through wood lands or forests.

Number of shares limited.

Directors, how chosen.

Quorum.

President.

Clerk, who shall be sworn.

Treasurer, who shall give bonds.

Books for subscription, how and where to be opened.

tion 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 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: and in case such rail road shall pass through any wood lands 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. The capital stock of said corporation shall consist of not less than four thousand, nor more than twelve 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 not less than thirty thousand dollars, for the faithful discharge of his trust. And for the purpose of receiving subscriptions to said stock, books shall be opened, under the direction of the persons named in the first section of this act, in the towns of Bath, Brunswick, Freeport, North Yarmouth and the city of Portland, in this state, and the city of Boston in Massachusetts, and elsewhere, as they shall appoint, to remain open for ten suc-

cessive days, of which time and place of subscription, public notice shall be given in some newspaper printed in Bath, Portland and Boston, twenty days at least previous to the opening such subscription, and in case the amount subscribed shall exceed twelve 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.

If amount subscribed exceed 12,000 shares, it shall be distributed.

First meeting, how called.

SECT. 3. 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 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 assessments due thereon, with 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 interests and costs of sale: provided, however, that no assessments shall be laid upon any shares in said corporation of greater amount in the whole than one hundred dollars.

Powers of president and directors in behalf of the corporation.

Treasurer to give notice of assessments.

If subscriber neglect to pay for 30 days after notice, remedy.

Liable for balance due after sale, &c.

Entitled to overplus of sale.

Proviso.

CHAP. 146.

By-laws and regulations.

SECT. 4. And 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.

§ 23, ch. 76, R. S. shall not apply to this corporation.

SECT. 5. The twenty-third section of the seventy-sixth chapter of the revised statutes, shall not apply or extend to the company hereby incorporated.

Toll established.

SECT. 6. 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.

Transportation, construction of wheels, &c. to conform to regulations of directors.

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,

Proviso.

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.

Legislature may alter and reduce rates of toll every 12 years, if profits exceed 12 per cent.

Further proviso.

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.

Instead of reduction of tolls, may apply surplus to public schools.

Power of legislature to connect therewith other rail roads.

SECT. 7. 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

Rates of toll for persons and property transported by any rail road connected therewith.

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, at any of the deposits of said corporation.

SECT. 8. The directors of said corporation 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.

May erect toll houses and appoint toll gatherers.

SECT. 9. 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.

Guardian may settle for property taken belonging to minor, &c.

SECT. 10. 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 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 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.

Penalty for wilful and malicious obstruction or injury to said road.

Offenders liable to indictment.

Fine and imprisonment.

SECT. 11. The annual meeting of the members of said corporation shall be holden on the second 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 no

Annual meeting.

CHAP. 146.

Special meetings.

proprietor shall be entitled to more than one thousand votes. 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.

Construction of rail road in crossing canals, turnpikes, rail roads, &c.

SECT. 12. If the said rail road in the course thereof, shall cross any private way, 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 private way, canal, turnpike, rail road 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 may, if necessary, 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: and said corporation shall be liable and holden to pay all damages that any person or persons may sustain in their oxen, cows or other neat stock, occasioned by such rail road.

Limits of time for survey of route and completion of said rail road.

SECT. 13. 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 eighteen hundred and forty-six, 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 fifty, in either of the above mentioned cases, this act shall be null and void.

Repair of bridges, abutments and embankments.

SECT. 14. 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, highway or turnpike, over said rail road. And it shall be the duty of said rail road corporation, before commencing the work of raising or lowering any turnpike or other way, to request the direction of the county commissioners as to the mode of raising or lowering the same; and it shall be the duty of said commissioners, after due notice to the parties interested, to direct the mode of performing said work; and their decision shall be final.

Duty before raising or lowering turnpikes, &c.

Authorized to construct private bridges over tide waters, rivers, &c.

SECT. 15. If said road shall in the course thereof, cross any tide waters, navigable rivers or streams, the said corporation is hereby 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 prevent the nav-

igating said waters; and said corporators shall be liable for all damages sustained by individuals in consequence of unreasonable detention.

CHAP. 146.

Liable for damages by detention.

SECT. 16. 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.

Books open at all times to the inspection of governor and council, or to committee of legislature.

Treasurer every 12 years to make exhibit of profits under oath.

SECT. 17. 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 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 the tolls due for the transportation thereof.

Mail to be transported for reasonable compensation.

In case of disagreement between P. M. general and corporation, legislature to fix the rate.

Road, &c. to be at all times in good repair, after tolls commence

Lien for tolls.

SECT. 18. Any person who shall perform labor or furnish materials for the constructing, making, altering or repairing, said rail road or appurtenances, or furnish labor or materials for the above purposes, by virtue of any contract with said corporation, or other person who had contracted with said corporation, or any sub-contractors, shall have a lien to secure the payment of the same, upon such rail road, and appurtenances; and upon the right of redeeming the same when under mortgage; and said lien shall continue in force for the space of one year, from the time when such payment becomes due.

Lien for security of payment of labor and materials on said road.

Said lien to continue one year from time payment becomes due.

SECT. 19. Such person may secure the benefit of such lien by an attachment of said rail road and appurtenances, or right of redemption within three years; and such attachment shall have precedence of all other attachments, not made under any such lien.

Benefit of lien secured by attachment.

Priority of such attachments.

SECT. 20. If the said corporation or other person shall tender to the creditor aforesaid the sum justly due to him as aforesaid, such lien shall cease.

Such lien shall cease on tender of sum due.

SECT. 21. All lands or other real estate, which shall be taken or used by this rail road company for any of the purposes aforesaid, may be taxed to said rail road company by the assessors of the

Lands and real estate belonging to said corporation to be taxed where such property is situate.

CHAP. 147.

Lien for pay-
ment of such tax.

Shares to be con-
sidered and tax-
ed as personal
estate.
Proviso.

several cities, towns and plantations, in which said lands or other real estate may be situate, and shall be valued the same as other real estate of the same quality is, in said city, town or plantation. And such lien shall be had thereon, for the payment of the tax assessed thereon as above, as is now or may be hereafter provided by law for securing the payment of taxes assessed on real estate. The shares in said rail road company shall be deemed and considered to be personal estate, and shall be taxed in the same way and manner as other personal estate now is: provided said company shall at all times comply with the provisions of their charter.

[Approved February 28, 1844.]

Chapter 147.

AN ACT to annex part of the town of Hallowell to the town of Pittston.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Part of Hallowell
annexed to Pitt-
ston.
Description and
boundaries.

The following described territory, in the town of Hallowell, in the county of Kennebec, to wit: beginning at the northwest corner of the town of Pittston, on the east side of Kennebec river; thence up said river fifty rods; thence easterly on a parallel line with the north line of Pittston, three hundred and twenty rods; thence southerly at right angles to the said north line of Pittston, together with the inhabitants thereon, are hereby annexed to the town of Pittston, in said county.

[Approved February 29, 1844.]

Chapter 148.

AN ACT establishing the line between the town of Detroit, in the county of Somerset, and the town of Plymouth, in the county of Penobscot.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

Dividing lines
between towns
of Detroit and
Plymouth defin-
ed.

The line between the town of Detroit, in the county of Somerset, and the town of Plymouth, in the county of Penobscot, is hereby established as follows: beginning at a spruce tree, in the south line of the town of Palmyra, and thence running south three and one half degrees west to a monument, in the north line of the town of Troy, and as surveyed and marked by the selectmen of the said towns of Detroit and Plymouth, in the year of our Lord