

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1845.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.  
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1845.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1845.

AN ACT to establish the Androscoggin and Kennebec Rail Road.

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

Corporators.	SECT. 1. William R. Frye, Edward Little, James Lowell, Thomas B. Little, Nathan Reynolds, N. B. Reynolds, John M. Frye, Calvin Gorham, John B. Brown, St. John Smith, John Dow, Charles E. Barrett and James Hall, their associates, successors and assigns are hereby made and constituted a body politic and corporate,
Corporate name.	rate, by the name of the Androscoggin and Kennebec Rail Road Company; and by that name may sue and be sued; plead and be impleaded; and shall have and enjoy all proper remedies at law
Powers, privileges, &c.	and in equity to secure and protect them in the exercise and use of the rights and privileges and in the performance of the duties hereinafter granted and enjoined, and to prevent all invasion thereof, or interruption in exercising and performing the same
Construction, completion, &c. of rail road.	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, tunnels, viaducts, turnouts, culverts, drains and all other necessary
Location of said road.	appendages, from some point of intersection of the Atlantic and Saint Lawrence rail road, easterly, through the town of Lewiston to or near the Kennebec river, at some point between the north line of the town of Waterville and the south line of Hallowell, on such route as the directors of said corporation, in the exercise of their best judgment and discretion, shall judge most favorable and best
Proviso.	calculated to promote the public convenience and carry into effect the intentions and purposes of this act: <i>provided</i> , said corporators shall within one year from the approval of this act, file with the register of deeds, for the county of Kennebec, a specification of the towns through which said road is to run, and also the point of its
Power to carry into effect this act.	eastern terminus. And said corporation 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
Real estate.	of this act as herein set forth. And for this purpose said corporation shall have the right to purchase, or to take and hold so much of the land and other real estate of private persons and corporations,
Right to remove earth, gravel, &c.	as may be necessary for the location, construction and convenient operation of said 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,
Proviso.	on or from the land so taken: <i>provided, however</i> , that said land, so taken, shall not exceed six rods in width, except where

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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 the laying out of highways. And the land so taken by said corporation, shall be held as lands taken and appropriated 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; 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. And furthermore said corporation shall have all the powers, privileges and immunities, and be subject to all the duties and liabilities provided and prescribed respecting rail roads, in chapter eighty-one of the revised statutes, not inconsistent with the express provisions of this charter.

Further proviso.

Damages, how estimated and settled.

Right to remove trees, &c. which may be liable to injure or obstruct said road.

Damages, how recovered. Powers, privileges, &c.

SECT. 2. 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 aforementioned, and give good and valid releases and discharges therefor.

When lands of any infant, person non compos mentis are taken.

—how settled and adjudicated.

SECT. 3. The capital stock of said corporation shall consist of not less than four thousand nor more than ten 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 president of the board, who shall also be the president of the corporation; and shall have

Capital stock—
No. of shares.

Directors.

Tenure of office.

Quorum.

President.

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authority to choose a clerk, who shall be sworn to the faithful discharge of his duty ; and a treasurer, who shall be sworn and also give bonds to the corporation, with sureties to the satisfaction of the directors, in a sum not less than twenty 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 as they may determine, in the town of Augusta, and the cities of Bangor and Portland, in this state, and the cities of Salem and Boston, in Massachusetts, and elsewhere as they shall appoint, to remain open for ten successive days, of which time and place of subscription public notice shall be given in some newspaper printed in Portland, Augusta and Boston, twenty days at least previous to the opening of said 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 five 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 town and cities last above named, of the time and place, and the purposes of such meeting, at least twenty days before the time mentioned in such notice.

Clerk.

Treasurer.

—his bond.

Subscriptions to said stock.

If subscription exceed 10,000 shares, how averaged.

First meeting.

By-laws.

Powers of president and directors,

—in locating, constructing and completing said road, &c.

—and in purchasing and holding land, materials, engines, &c.

Assessments.

SECT. 4. 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.

SECT. 5. 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

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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 stockholder or subscriber 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.

If assessment is not paid in thirty days after notice, procedure.

Delinquent accountable for balance and entitled to overplus of sale.

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SECT. 6. A toll is hereby granted and established for the sole benefit of said corporation, upon all passengers and property of all descriptions, which may be conveyed or transported by them upon said road, at such rate 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 said road, shall be in conformity with such rules, regulations and provisions, as the directors shall from time to time prescribe and direct.

Toll.

Transportation of persons and property, construction of wheels, forms of cars, &c., subject to control of directors.

SECT. 7. The legislature may authorize any other company or companies to connect any other rail road or rail roads coming from a northerly or easterly direction, with the rail road of said corporation. 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 be authorized to be connected therewith, at the same rates of freight and toll, as may be prescribed by said corporation, so that the rates of freight and toll on such passengers and 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.

Other companies may be authorized to connect on the easterly side.

Transportation of persons, property, &c. of rail road so connecting.

SECT. 8. 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

Construction of said road over private ways.

—turnpikes, canals, other rail roads, &c.

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Power to raise or lower such turnpikes, highways, private ways, &c.

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.

Bridges, abutments, and embankments to be kept in good repair.

SECT. 9. 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 constructing such private way or turnpike over said rail road.

Authorized to erect bridges over lakes, ponds, rivers, &c.

SECT. 10. If said road shall, in the course thereof, cross any lakes, ponds, navigable rivers or streams, the said corporation are hereby authorized and empowered to erect for the sole and exclusive travel on their said rail road, a bridge across each of said rivers, lakes, ponds or streams; *provided* said bridge or bridges shall be so constructed as not unnecessarily to obstruct and impede the navigation of said waters.

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Fences to be maintained on each side of their track, &c.

SECT. 11. Said rail road corporation shall erect and maintain substantial, legal and sufficient fences on each side of the land taken by them for their rail road, where the same passes through enclosed or improved lands, or lands that may hereafter be improved; and for neglect to erect and maintain such fence, said corporation shall be liable to be indicted in the district court for the county where such fence shall be insufficient, and to be fined in such sum as shall be adjudged necessary to repair the same, and such fine shall be expended for the erection or repair of said fence under the direction of an agent appointed by said court, as in case of fines imposed upon towns for deficiency of highways.

Penalty for neglect.

Expenditure of fines.

Transportation of U. S. mail.

SECT. 12. The said corporation shall at all times when the postmaster 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. 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 engines, 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 and tendered; and a lien is hereby created on all articles trans-

In case of disagreement as to compensation, legislature to fix the allowance.

Rail road and appurtenances to be in good repair after the commencement of receiving tolls.

Lien for toll.

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ported for said tolls. And the said corporation fulfilling on its part all and singular the several obligations and duties by this section imposed and enjoined upon it, shall not be held or bound to allow any engine, locomotive, cars, carriages or other vehicle for the transportation of persons or merchandize, to pass over said rail road other than its own, furnished and provided for that purpose, as herein enjoined and required: *provided, however*, that said corporation shall be under obligations to transport over said road, in connection with their own trains, the passenger and other cars of any other incorporated company that may hereafter construct a rail road connecting with that hereby authorized, such other company being subject to all the provisions of the sixth and seventh sections of this act as to rates of toll, and all other particulars enumerated in said sections.

Said corporation performing all its obligations and requirements, privileges, &c.

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SECT. 13. 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 five hundred dollars, to the use of the state, or may be imprisoned for a term, not exceeding five years, at the discretion of the court before whom such conviction may be had.

If any person shall wilfully or wantonly obstruct the passage of any carriage on said rail road, or engine, &c., penalty.

Such offenders liable to indictment.

Fine.

Imprisonment.

SECT. 14. Said corporation shall keep in a book for that purpose, a regular account of all their disbursements, expenditures and receipts, and 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 year, the treasurer of said corporation shall make an exhibit, under oath, to the legislature, of the net profits derived from the income of said railroad.

To keep an account of disbursements, expenditures, &c. Books to be open to the inspection of the governor and council and legislature. Annual exhibit.

SECT. 15. All real estate purchased by said corporation for the

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Taxation of real estate.

Valuation.

Shares to be considered and taxed as personal estate.

When net income exceeds ten per cent. per annum—appropriation of overplus.

No other tax ever to be levied.

Annual meeting.

Directors.

Votes.

Special meetings

Legislature may inquire into its affairs and correct abuses, &c.

Duration of charter.

use of the same, under the fifth section of this act, shall be taxable to said corporation by the several towns, cities and plantations, in which said lands lie, in the same manner as lands owned by private persons, and shall, in the valuation list, be estimated the same as other real estate, of the same quality, in such town, city or plantation, and not otherwise; and the shares owned by the respective stockholders shall be deemed personal estate, and be taxable as such to the owners thereof, in the places where they reside and have their homes. And whenever the net income of said corporation shall have amounted to ten per centum per annum upon the cost of the road and its appendages and incidental expenses, the directors shall make a special report of the fact to the legislature; from and after which time one moiety or such other portion as the legislature may from time to time determine, of the net income of said rail road accruing thereafter, over and above ten per centum per annum, first to be paid to the stockholders, shall annually be paid over by the treasurer of said corporation as a tax, into the treasury of the state, for the use of the state. And the state may have and maintain an action against said corporation therefor to recover the same. But no other tax than herein is provided, shall ever be levied or assessed on said corporation, or any of their privileges or franchises.

SECT. 16. The annual meeting of the members of said corporation shall be holden on the first Monday in August, or such other day as shall be determined by the by-laws, 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, by himself or proxy, 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. 17. The legislature shall at all times have the right to inquire into the doings of the corporation, and into the manner in which the privileges and franchises, herein and hereby granted, may have been used and employed by said corporation, and to correct and prevent all abuses of the same, and to pass any laws imposing fines and penalties upon said corporation, which may be necessary more effectually to compel a compliance with the provisions, liabilities and duties hereinbefore set forth and enjoined, but not to impose any other or further duties, liabilities or obligations; and this charter shall not be revoked, annulled, altered, limited or restrained, without the consent of the corporation, except by due process of law.

SECT. 18. 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 fifty, 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 sixty, in either of the above mentioned cases, this act shall be null and void.

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Limitation of time for organizing actual survey of route and completion of said road.

[Approved March 28, 1845.]

Chapter 271.

AN ACT to incorporate the Portland Steam Packet Company.

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

SECT. 1. Lemuel Dyer, William Kimball, Daniel Winslow, Samuel Clark, Nathaniel Blanchard and Moses Gould, their associates, successors and assigns, are hereby created a corporation by the name of the Portland Steam Packet Company, for the purpose of steam navigation between Portland, Boston and such other ports as may be deemed useful, with all the powers and privileges, and subject to all the duties and liabilities, that may be granted and required concerning similar corporations, by the laws of this state.

Corporators

Corporate name.

Powers, privileges, &c.

SECT. 2. The said corporation may take, purchase and hold real and personal estate, to an amount not exceeding at any one time, one hundred thousand dollars, with full power to manage and dispose of the same.

Power to hold real and personal estate.

SECT. 3. Any two persons named in this act, may call the first meeting of said corporation, for the purpose of organizing, at such time and place as they may see fit, by giving notice thereof two weeks successively, in some newspaper published in Portland.

First meeting.

[Approved March 31, 1845.]