

# 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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*AUGUSTA:*

WM. T. JOHNSON, PRINTER TO THE STATE.

1845.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1845.

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## Chapter 284.

AN ACT to set off a part of the town of Bluehill.

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

Limits of land set off.

SECT. 1. All that part of the farm of Floyd Hinkley, lying in the town of Bluehill, is hereby annexed to the town of Penobscot.

SECT. 2. This act shall take effect from and after its approval by the governor.

[Approved April 7, 1845.]

## Chapter 285.

AN ACT to establish the Penobscot and Kennebec Rail Road.

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

Corporators.

SECT. 1. James Crosby, George W. Pickering, Samuel Veazie, Amos M. Roberts, Franklin Adams, Rufus Dwinel, Samuel P. Strickland, Hastings Strickland, Leonard Jones, Joseph Kelsey, William R. Miller, John H. Pillsbury, Gorham L. Boynton, Daniel W. Bradley, Daniel B. Hinkley and Dudley F. Leavitt, their associates, successors and assigns, are hereby made and constituted a

Corporate name.

body politic and corporate by the name of the Penobscot 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 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. And the said corporation are hereby authorized and em-

Powers, privileges and liabilities.

May construct and keep in repair rail road, &amp;c.

powered 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 appendages, from some point between the south line of Gardiner and the north line of Waterville, and from that point to the city of Bangor. Said rail road to be located and constructed, in the general direction of Bangor, on such route as the directors of said corporation, in the exercise of their best judgment and discretion, shall judge most favorable and best calculated to promote the public convenience, and carry into effect the intentions and purposes of this act. 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 ob-

Location and route.

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jects 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, 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, on or from the lands so taken: *provided, however,* that said land, so taken, shall not exceed six 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 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 a 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 recorded 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 eighty-one of the revised statutes, not in consistent with the express provisions of this charter.

Real and personal estate.

Right to remove any earth, gravel, &c.

Proviso.

How damages may be ascertained if parties disagree.

Application for damages to be made within 3 years.

Right to remove trees.

Damages. Powers, &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 aforesaid, and give good and valid releases and discharges therefor.

Property taken from persons non compos mentis, &c. how adjudicated.

SECT. 3. The capital stock of said corporation shall consist of

Capital stock.

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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 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, at which time and place of subscription, public notice shall be given in some newspaper printed in Portland, Augusta, Bangor and Boston, 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 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.

**Directors.**

**Quorum.**

**President.**

**Clerk.**

**Treasurer.**

**Bonds.**

**Subscription books.**

—when opened.

**Notice to be given previous to opening.**

**Distribution if amount subscribed exceed the number of shares.**

**First meeting.**

**By-laws**

**Location, construction and completion of said road, &c. vested in the president and directors.**

**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 descrip-

tions, 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 within or without the state, land, materials, engines and cars, and other necessary things, in the name of the corporation for the use of said rail 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 the interest and cost 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 assessment shall be laid upon any shares in said corporation of a greater amount, in the whole, than one hundred dollars.

Assessments.

Treasurer to give notice of all assessments.

If not paid within thirty days after notice, may be sold.

Delinquent to be held for balance, and entitled to overplus.

Proviso.

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.

Rates.

Rules and regulations.

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, coming from a northerly or easterly direction. 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

Other rail roads coming from a northerly or westerly direction may be authorized to connect with this road.

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

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the same rates of toll and freight as may be prescribed by said corporation, so that the rates of toll and freight 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.

Private ways, canals, turn-pikes, &c. not to be obstructed.

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 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.

Power to raise or lower any turnpike, highway, or private way.

Bridges, abutments, &c. to be maintained 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 conducting such private way or turnpike over said rail road.

Authorized to erect bridges across tide waters, &c.

SECT. 10. If said rail road shall, in the course thereof, cross any tide waters, 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 or streams, or across any such tide waters: *provided*, said bridge or bridges shall be so constructed as not unnecessarily to obstruct or impede the navigation of said waters. *Provided*, that no bridge shall be built across the Kennebec river, south of the present Kennebec bridge, at Augusta, nor within twenty rods of any existing bridge; and if any such bridge shall be constructed across the Kennebec river, south of the north part of Ticonic bay at Waterville, it shall have no more than one pier, and shall be so constructed as to have as much height from the water to the under side of the bridge, as the present Kennebec bridge, and so as to interfere as little with the free navigation of the river with boats and rafts as is practicable.

Proviso.

Further proviso relative to Kennebec river.

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; and for neglect or failure 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.

Appropriation of fine.

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 the 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 or tendered, and a lien is hereby created on all articles transported 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.

Transportation of the mail of the U. S.

Terms of transportation, how settled.

Corporation bound to maintain in good repair the roads, engines, &c.

Lien for toll.

Said corporation by compliance with requisitions of this act, may control their said rail road.

Proviso.

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;

Malicious mischief and trespass.

Forfeiture.

How recovered

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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.

Fine and penalty on conviction.

Books of receipts and disbursements, to be open to governor and council, &c.

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 be open at all times 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 rail road.

Annual return.

Taxation of real estate.

SECT. 15. All real estate purchased by said corporation for the use of the same, under the fifth section of this act, shall be taxable to the said corporation by the several towns, cities and plantations in which said lands may 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 home. 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 from 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.

Valuation.

Shares to be considered personal property, &c.

When net income exceeds 10 per cent., a certain portion of overplus to accrue to the state.

No other tax to be levied on said road.

But no other tax than herein is provided shall ever be levied or assessed on said corporation or any of their privileges or franchises.

Annual meetings.

SECT. 16. The annual meeting of the members of said corporation shall be holden on the second Monday in June, or such

other days 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.

Choice of directors.

Special meetings.

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 consent of the corporation, except by due process of law.

Power of legislature to examine into transactions of said corporation, &amp;c.

Duration of charter.

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.

Specified time for location and completion of said road.

[Approved April 7, 1845.]

## Chapter 286.

AN ACT to incorporate the Hallowell Steam Navigation Company.

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

SECT. 1. That Samuel Watts, James Sherburne, Isaac Smith, John Hubbard, Simeon C. Whittier, Andrew Masters and Thomas B. Brooks, their associates and successors, are hereby made and constituted a body corporate and politic, by the name of the Hallowell Steam Navigation Company, with power to employ in the transportation of passengers and freight, between Hallowell and Boston, a boat or boats to be propelled by steam, and for that pur-

Corporators.

Corporate name.