

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-SIXTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1846.

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

Augusta:

WILLIAM T. JOHNSON,.....PRINTER TO THE STATE.

1846.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1846.

machinery, mills and other buildings, as may be useful for that purpose.

CHAP. 369.

Mills, machinery,
&c.

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

[Approved July 30, 1846.]

Chapter 369.

An Act to establish the York and Cumberland Rail Road Company.

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

SECTION 1. William C. Allen, Benjamin J. Herrick, James Thomas, Nathan D. Appleton, Joseph Emerson, Israel Chadbourne, Nathan Dane, John T. Paine, John Storer, John Powers, Rufus McIntire, Nathan Clifford, John Jameson, Moses McDonald, Moses Dunn, Miles W. Stewart, Nathaniel J. Miller, Ellis B. Usher, Daniel Appleton, Isaac Deering, James Leavitt, Jere. Roberts, junior, James Irish, Toppan Robie, Josiah Pierce, Dominicus Jordan, Daniel C. Emery, Brice M. Edwards, Dan Carpenter, Noah Nason, David Noyes, William G. Chadbourne, William Swan, Alvah Conant, Luther Dana, George F. Shepley, and Thomas Hammond, their associates, successors and assigns, are hereby made and constituted a body politic and corporate by the name of the York and Cumberland Rail Road Company, and by that name may sue and be sued, plead and be impleaded, and shall have and may 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 invasions thereof, or interruption in exercising and performing the same. 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 appendages, from some point or place in the city of Portland, in the county of Cumberland, through the villages of Sacarappa, in the town of Westbrook, and of Gorham; thence into the county of York, through the towns of Buxton, Hollis, and Waterborough, to Alfred village; and thence through the towns of Sanford, North Berwick and Berwick, to some point or place in South Berwick or Berwick, where it will best connect with a rail road leading to Boston, and said

Corporators.

Corporate name.
Powers and priv-
ileges.

Authorized to
construct a rail
road.

Course and direc-
tion of route.

CHAP. 369.

Authorized to connect with the Boston and Maine Rail Road.

Proviso.

Power to carry into effect the provisions of this act.

Power to hold estate.

Right to remove earth, gravel, &c.

Proviso.

Further proviso.

Damages, how paid.

Application for damages to be made within three years.

Right to fell or remove trees that may obstruct said rail road.

Powers and liabilities.

corporation is hereby authorized to connect their said road with the Boston and Maine rail road in accordance with the provisions of law, and not inconsistent with the chartered rights of said last named rail road company: *provided*, that the said rail road shall not, without the consent of the city council of the city of Portland, be located or constructed across Green-street in said city; nor, without such consent, shall the track and terminus of said rail road, at any place east of Green-street, be located more than one hundred and fifty feet from the present high water mark. 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 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 that they shall also have the right to take 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 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, estates 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, the said corporation shall pay such damages as shall be ascertained and determined by the county commissioners, for the county where such lands 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 the 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 wood lands or forests, the said company shall have the right to fell or remove any trees standing thereon, 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 their charter.

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.

When lands belonging to any infant, feme covert, or person non compos mentis, are taken, how settled.

SECT. 3. The capital stock of said corporation shall consist of not less than five thousand nor more than eight 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 chosen 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 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 times as they may determine, in the towns of Westbrook, Gorham, and Alfred, and in the cities of Portland and Boston, 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 and Boston and Saco, twenty days at least previous to the opening of such subscription; and in case the amount subscribed shall exceed eight 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 of Saco and city of Portland, of the time and place, and the purposes of such meeting, at least twenty days before the time mentioned in such notice.

No. of shares constituting capital stock.

Directors.

—tenure of office.

Quorum.

President.

Clerk.

Treasurer.

Bond.

Books of subscription to be opened.

—for ten days.

Notice to be given twenty days previous.

If subscription exceed eight thousand shares, how regulated.

First meeting, how called.

CHAP. 369.

By-laws.

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.

Powers vested in president and directors.

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 object of this grant; to purchase and hold, within and without the state, 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 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 assessment shall be laid upon any share in said corporation, of a greater amount in the whole, than one hundred dollars.

If subscriber or stockholder, neglect to pay any assessment for thirty days.

—shares to be sold after notice, &c.

If the shares do not pay the assessment the delinquent holden for the balance.

—if sale exceeds the amount due, he is entitled to the overplus. Proviso.

Toll granted.

—how established.

SECT. 6. A toll is hereby granted and established for the sole benefit of said corporation, upon all passengers, and property of all description, 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.

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 on the route of said rail road: and the said corporation shall receive and transport all persons, goods and property, of all descriptions, which may be carried and transported to the rail road of said corporation, on such other rail roads as may be hereafter authorized to be connected therewith, at the same rates of toll and freight as may be prescribed by said corporation, so that the rates of freight and toll on such passengers, goods and other property as may be received from such other rail roads, so connected with said rail road, as aforesaid, shall not exceed the general rates of freight and toll, on said rail road, received for freight and passengers at any of the depots of said corporation.

Legislature may authorize the connecting of any other rail road with the rail road of said corporation.

Same rates of toll to be charged the connecting rail road, as may be fixed by said corporation.

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.

Not to obstruct private ways, highways, canals, &c.

Gates to be erected for safety of travelers.

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.

Bridges, &c. to be kept in good repair.

SECT. 10. If the 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.

Empowered to build bridges over tide or navigable waters

Proviso.

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 im-

Fences to be erected on each side of said rail road.

CHAP. 369.

Penalty for neglect.

Fines, how expended.

Holden to transport the U. States mail at a fair compensation.

Compensation, how determined.

Duty of said corporation after they shall commence taking tolls, in relation to rail road cars, &c.

Lien created on all articles transported.

Not obliged to permit any engine, other than their own, upon their track.

If any person shall willfully or maliciously, &c., injure or obstruct the passage of said rail road.

Penalty.

How recovered.

Offender liable to indictment.

Amount of fine and term of imprisonment, on conviction.

proved; 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.

SECT. 12. 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 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, car, carriage or other vehicles 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.

SECT. 13. If any person shall willfully 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 offense, 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 offense or offenses, 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 shall be had.

SECT. 14. Said corporation shall keep in a book for that purpose, a regular account of all 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 rail road.

Accounts of disbursements and receipts to be kept.

Books at all times to be open to the inspection of governor and council, &c.

Treasurer to make an annual exhibit.

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

Real estate of said corporation, how taxed.

When net income shall amount to ten per cent. the fact shall be reported to the legislature.

One moiety over and above ten per cent. to be paid into the treasury of state.

The state may maintain an action for the same.

No other tax than herein provided shall ever be exacted.

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

Annual meeting.

Directors, how chosen.

Special meetings.

CHAP. 370.

Right of the legislature to inquire into the doings of said corporation.

Duration of charter.

Certain conditions to be complied with or the charter to be null and void.

Authorized to transfer and assign this charter.

Said transfer shall not exonerate said corporation or the stockholders thereof from any liabilities previously incurred.

Additional toll granted on certain conditions.

SECT. 17. The legislature shall at all times have the right to enquire into the doings of said 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 one, 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 one, in either of the above cases, this act shall be null and void.

SECT. 19. And the said corporation is hereby authorized and empowered to transfer and assign this charter, with all its privileges, immunities and franchises, to the Boston and Maine Rail Road Company, on such terms and conditions as shall ensure, within the times prescribed by this act, the location and construction of said rail road. But said transfer and assignment shall not exonerate the corporation hereby created, or the stockholders thereof, from any legal liabilities or duties by them, before that time incurred and undertaken, and the said Boston and Maine Rail Road Company, after such transfer and assignment, shall be holden to perform all the duties, by this act imposed upon the said York and Cumberland Rail Road Company.

[Approved July 30, 1846.]

Chapter 370.

An Act additional to "an act to incorporate the Machias River Company."

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

SECTION 1. For every one hundred dollars, expended by the