

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-EIGHTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1848.

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

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WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1848.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1848.

ERRATA:

**The following leaf is
inserted because one or more pages
in this chapter have errors
noticed and corrected here.**

STATE OF MAINE.

SECRETARY'S OFFICE, AUGUSTA, December 1, 1848.

I hereby certify, that the acts and resolves contained in this pamphlet have been compared with the originals deposited in this office, and appear to be correctly printed, with the exceptions mentioned in the *errata* hereunto annexed.

EZRA B. FRENCH, *Secretary of State.*

E R R A T A .

PUBLIC LAWS.

- Chapter 64, sec. 2, twentieth line, for "person" read "persons".
67, in the title for "seventeenth" read "seventh".
81, sec. 2, sixth line, for "and" read "or".

PRIVATE AND SPECIAL LAWS.

- Chapter 124, sec. 9, fourth line, for "insure" read "enure".
131, sec. 9, thirteenth line, for "requested" read "required".
132, sec. 3, second line, for "five" read "four".

the town of Thomaston would have by law, had this act not been passed. The taxes already assessed on the inhabitants of the town of Thomaston shall be collected and paid into the treasury of said town to be appropriated to the several purposes for which they were assessed.

CHAP. 132.

Taxes already assessed, how paid.

[Approved July 28, 1848.]

Chapter 132.

An act to establish the Belfast and Waterville Rail Road Company.

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

SECT. 1. Hiram O. Alden, Hugh J. Anderson, Joseph Williamson, Paul R. Hazeltine, James P. White, Nathaniel M. Lowney, Alfred Johnson, Solyman Heath, William H. Burrill, William G. Crosby, Benjamin Hazeltine, James White, Daniel Merrill, Asa Faunce, Daniel Haraden, Timothy Chase and Sherburn Sleeper, their associates, successors and assigns, are hereby made and constituted a body politic and corporate, by the name of the Belfast and Waterville 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 empowered to locate and construct and finally complete, alter, amend 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 at or near tide waters, in said town of Belfast running westwardly and northwardly, through the towns of Waldo, Swanville, Brooks, Knox, Thorndike, Unity, Seabastcook and Winslow to Waterville. Said rail road to be located and constructed 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 the said corporation shall be and hereby are invested with all the powers, privileges and immunities, which

Corporators.

Corporate name.

Authorized to locate, construct and keep in repair a rail road.

Course and direction of route.

CHAP. 132.

Right to take and hold land and other real estate.

—to take and remove earth, gravel, &c.

Proviso.

Further proviso.

Damages, how determined, if parties shall not agree.

Application to be made within two years.

Right to fell and remove trees.

General powers, privileges and immunities.

When land shall be taken of any infant, person non compos mentis, or feme-covert.

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 take and hold, so much of the land and other real estate of private persons and corporations as may be necessary for the location and 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 purposes of excavation or embankment; and *provided also*, that in all cases, said corporation shall pay for such 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 in which 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 two 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 a right to fell or remove any trees standing therein, within four rods of said road, which by their liability to be blown down, or from their natural falling, might obstruct or impair said 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 act.

SECT. 2. When said corporation shall take any lands or other property 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 corpora-

tion for damages or claims for damages by reason of taking such land or other property aforesaid and give good and valid releases and discharges therefor.

SECT. 3. The capital stock of said corporation shall consist of not less than five thousand nor more than twelve thousand shares of one hundred dollars each; and the immediate government and direction of the affairs of said corporation shall be vested in seven 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 president of the corporation; and shall have authority to choose a clerk who shall be sworn to the faithful discharge of his duties, and a treasurer, who shall be sworn and also give bonds to the corporation with sureties to the satisfaction and acceptance of the directors in a sum of not less than twenty thousand dollars for the faithful discharge of his trust.

Capital stock.

Directors.

Tenure of office.

President.

Clerk.

Treasurer.

Bond.

SECT. 4. Said corporation shall have power to make, ordain and establish all necessary by-laws, rules and regulations not inconsistent 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.

By-laws.

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 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 all 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

Powers vested in president and directors.

Assessments.

Notice to be given.

Shares liable to be sold if assessments are not paid within thirty days.

CHAP. 132.

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 assessments shall be laid upon any share in said corporation of a greater amount, in the whole than one hundred dollars.

Toll granted.

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 rates as may be agreed on and established, from time to time, by the directors of said corporation; the transportation of persons and property; the construction of wheels; the forms of cars and carriages; the weights of loads and all other matters and things in relation to the use and operation of said road, shall be in conformity with such rules, regulations and provisions, as the directors shall from time to time prescribe, order and direct.

Transportation of persons and property, construction of wheels, &c.

Required to receive and transport persons and goods carried to their road by any rail road connecting therewith.

Rates of toll and freight for such persons and property.

SECT. 7. Said corporation shall receive and transport all persons, goods and property of all descriptions, which may be carried or transported to the rail road of said corporation, on such other rail roads as may be 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 toll and freight 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.

Not to obstruct any private way, highway or canals.

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 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 rail road if necessary, may conveniently pass under or over the same, and erect such gate or gates as may be necessary for the safety of travelers thereon; and said corporation shall constantly maintain in good repair all bridges with their abutments and embankments which they may construct for the purpose of conducting their rail road over any canal, turnpike, highway or private way or for conducting such turnpike, highway or private way over said rail road.

SECT. 9. 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 or bridges 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.

Authorized to erect bridges over tide waters, &c.

Proviso.

SECT. 10. Said corporation shall erect and maintain substantial and legal and sufficient fences, on each side of the land taken by them for their rail road when the same passes through enclosed or improved lands; and for any unreasonable neglect or failure to erect and maintain such fence, said corporation shall be liable to be indicted in the district court, in the county where such fence shall be insufficient and be fined in such sum as shall be adjudged necessary to erect or 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.

Fences to be erected.

Penalty for neglect.

SECT. 11. Said corporation, after they shall commence receiving tolls, shall be bound, at all times, to have said rail road in good repair, and a suitable number of carriages and vehicles for the transportation of persons and property together with the necessary locomotives or engines, therefor, and shall 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 property, to pass over said

Bound to have said rail road in good repair, &c.

Lien created for toll.

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

CHAP. 132.

Proviso.

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 the passenger and other cars of any other incorporated company whose road may be connected 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 things enumerated, provided and enjoined in said sections.

Holden to transport the U. S. mail.

SECT. 12. The said corporation shall at all times when the post master general shall require it, be holden to transport the United States' mails, 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 this state shall determine the same; and the said corporation shall be bound thereby.

Malicious mischief and trespass.

SECT. 13. If any person shall willfully and maliciously or wantonly and contrary to law, obstruct the passage of any carriage, car, locomotive engine, or other vehicle 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, aiding, assisting 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 any court of competent jurisdiction, 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 such 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 time, not exceeding five years, at the discretion of said court.

Forfeiture.

How recovered.

Fine and penalty on conviction.

Books of receipts and disbursements.

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 to the inspection at all times, 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 road.

Annual return.

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 be situated, 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 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 cent., 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 be levied or assessed on said corporation, or any of their privileges, property or franchises.

Taxation of real estate.

Shares deemed personal estate.

When the net income exceeds ten per cent.

—a certain portion of the overplus to accrue to the state.

No other tax to be levied on said road.

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

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

Right of the legislature to inquire into the doings of said corporation, &c.

CHAP. 132. pass any laws imposing fines and penalties upon said corporations, which may be necessary, more effectually to compel a compliance with the provisions, liabilities and duties herein before set forth and enjoined, but not to impose any other or further duties, liabilities or obligations.

Time for location
and completion
of said road.

SECT. 18. If the said corporation shall not have been organized, and the location of the route of said rail road, according to actual survey, 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-three, 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-eight, in either of the above mentioned cases this act shall be null and void.

First meeting.

SECT. 19. 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 Belfast, and such other town or city as they may appoint, of the time and place, and the purposes of such meeting, at least twenty days before the time named in such notice.

Subscription
book to be
opened.

SECT. 20. And for the purpose of receiving subscriptions to the capital stock of said rail road, 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 towns of Belfast and Waterville, and in such towns and cities, elsewhere, as they shall appoint, to remain open at least ten successive days, of which times and places of subscription, public notice shall be given in some newspaper published in Belfast, and such other places as they shall direct, twenty days at least previous to the opening of said books of 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 books of subscription shall, before the opening thereof, prescribe and determine.

Notice to be
given.

[Approved July 29, 1848.]