

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.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1848.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1848.

Erratum:

**There are two private & special
laws in 1848 designated as**

Chapter 186.

This is the second one and is filed as 186B.

CHAP. 186.

Directors, how chosen.

Special meetings.

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

Time for location and completion of said road.

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.

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-three, or if 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 abovementioned cases, this act shall be null and void.

[Approved August 10, 1848.]

Chapter 186.

An act to incorporate the Somerset and Kennebec Rail Road Company.

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

Corporators.

SECT. 1. William R. Flint, James T. Leavitt, Stephen Weston, of Madison, Daniel Stewart, Judah McLellan, James B. Dascomb, Drummond Farnsworth, John S. Tenney, John S. Abbot, Moses Littlefield, Henry P. Pratt, Franklin Smith, Elisha Coolidge, William Lowell, Horatio Cross, William Rowell, Chandler Baker, Joseph Spaulding, Charles B. Foster, William Connor, Ezra Totman, R. K. J. Porter, B. T. Densmore, and Abner Coburn, Daniel Bunker, George C. Getchell, of North Anson, Thomas H. Weston, Nathan Weston, of West

Madison, James M. Hilton, of Starks, Alpheus Lyon, Ivory Low, Joseph S. Clark, of Fairfield, David White, W. M. E. Brown, of Solon, Edward Webster, of Carratunk, Moses E. Pike, of Norridgewock, Edward McLellan, Hiram Getchell, of Skowhegan, Daniel Snow, of Bloomfield, their associates, successors and assigns, are hereby made and constituted a body politic and corporate by the name of the Somerset 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 invasions thereof or interruptions 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 in the county of Somerset at or near Carratunk falls, thence down the valley of the Kennebec river through either of the towns adjacent to said river, passing through the villages in the towns of North Anson, Norridgewock, Bloomfield or Skowhegan, and Kendall's Mills, in Fairfield, to the town of Waterville near the Ticonic falls in the county of Kennebec, with the right to connect with the Androscoggin and Kennebec rail road at Waterville, and the right to connect with the Penobscot and Kennebec, or the Belfast and Waterville rail road at some convenient point in the town of Sebastcook or Clinton, and with the right to extend their said rail road, on either side of the Kennebec river, and to connect the same with the Kennebec and Portland rail road at some point in Augusta, north of the Kennebec bridge, if the Penobscot and Kennebec rail road company shall not locate and make their rail road to Augusta within the times limited in their charter for so doing. 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 they shall also have the right to take, remove and use, for the

Corporate name.

Authorized to locate and construct a rail road, &c.

Course and direction of route.

Authorized to connect with certain other rail roads.

Powers, privileges and liabilities.

Authorized to take and hold land and other real estate.

CHAP. 186.

—to take and remove earth, gravel, and other materials from the land so taken.
 Proviso.

Further proviso.

Damages, how ascertained and determined, if parties shall not agree.

Right to fell and remove trees.

General powers, privileges and liabilities.

Capital stock.

Directors.

President.

Clerk.

Treasurer.

Bond.

Books of subscription to be opened.

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, 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 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 a right to fell or remove any trees standing therein within four rods of 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 provided for the recovery of other damages in this act.

SECT. 2. The capital stock of said corporation shall consist of not less than fifteen hundred nor more than eight thousand shares ; and the immediate government and direction of the affairs of said corporation shall be vested in nine, eleven or thirteen directors, who shall be chosen by the members of said corporation in the manner hereinafter provided, and shall hold their office until others shall have been duly elected and qualified to take their place, 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 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 ten thousand dollars for the faithful discharge of his trust. And for the purpose of receiving subscription 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 towns of North Anson, Norridgewock, Skowhegan and Waterville and elsewhere as they shall appoint, to remain open for five successive days, at least, of which time and place of subscription public notice shall be given in one or more of the newspapers printed in the county of Somerset or in the county of Kennebec, ten days at least before the opening of such subscription. 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 for the choice of directors and organization, by giving notice in one or more newspapers published as above named, of the time and place and the purposes of such meeting at least fourteen days before the time mentioned in such notice.

Ten days' notice to be given.

First meeting.

SECT. 3. 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 as aforesaid and give good and valid releases and discharges therefor.

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

SECT. 4. 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 powers 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 assessment 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

Powers vested in president and directors.

Assessments.

Notice to be given.
If subscriber or stockholder shall neglect to pay said assessments.

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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 shares in said corporation of a greater amount in the whole than one hundred dollars.

Proviso.

Toll granted.

Construction of wheels, forms of cars, carriages, &c.

SECT. 5. 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 form 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.

Other companies may be authorized to connect their rail roads with said roads.

SECT. 6. 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 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 of such passengers, goods and other property as may be received from such other rail roads so connected with said rail road as aforesaid shall not exceed the general rates of freight and toll on said rail road received for freight and passengers at any of the deposits of said corporation.

Not to obstruct the safe and convenient use of any private way, canal, turnpike, or other highway.

SECT. 7. If any 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, 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 or highway ; and the said corporation shall

have power to raise or lower such highway or private way, so that the said rail road, if necessary, may conveniently pass over or under the same, and erect such gate or gates thereon, as may be necessary for the safety of travelers on said rail road, highway, or private way, and shall keep all bridges and embankments necessary for the same in good repair.

SECT. 8. 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 be hereafter improved.

Fences to be erected.

SECT. 9. 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 may be required, for a fair and reasonable compensation. And in case the corporation and the post master general shall be unable to agree upon the compensation aforesaid, the legislature of the state shall determine the same. And said corporation,

Holden to transport U. S. mail

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 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 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 merchandise 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 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 fifth and sixth sections of this act as to rates of toll and all other particulars enumerated in said sections.

Bound to keep 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.

Proviso.

SECT. 10. If any person shall willfully and maliciously, or wantonly and contrary to law obstruct the passage of any carriages on such 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 construc-

Malicious mischief and trespass.

CHAP. 186.

Forfeiture.

tion of 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 may be had.

Fine and penalty on conviction.

Books of receipts and disbursements.

SECT. 11. 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 profits derived from the income of said rail road.

Annual exhibit.

Taxation of real estate.

SECT. 12. All real estate purchased by said corporation for the use of the same under the fourth section of this act shall be taxable to said corporation by the several cities, towns and plantations in which said land lies, in the same manner as lands owned by private persons, and shall in the valuation list be estimated the same as other adjacent lands of the same quality, in such city, town 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 to the treasurer of said corporation as a tax into the treasury of

Valuation.

Shares deemed personal estate.

When net income shall amount to ten per cent.

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. CHAP. 186.

SECT. 13. 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. Annual meeting.
Directors, how chosen.
Special meetings.

SECT. 14. 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. Power of legislature to inquire into doings of said corporation, &c.

SECT. 15. 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-two, or if the said corporation shall fail to complete said rail road to North Anson, 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 abovementioned cases this act shall be null and void. Time for locating and completing said road.

[Approved August 10, 1848.]