

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1849.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,
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1849.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE,

1849.

CHAP. 286.

Deeds, &c., to be sealed with corporate seal.

SECT. 5. All deeds of conveyance, covenants and grants, made in behalf of said corporation, shall be sealed with the corporate seal; and when made in pursuance of any vote of the corporation, shall be valid and effectual to convey property or bind the corporation.

Annual meeting.

SECT. 6. The annual meeting shall be holden in the month of August, and at that and all other meetings, it shall require seven persons at least to constitute a quorum for the transaction of business; and meetings may be directed at other times by the president or the corporation.

[Approved August 13, 1849.]

Chapter 286.

An act dissolving the bonds of matrimony between Charles P. Judkins and Julia A. Judkins.

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

The bonds of matrimony between Charles P. Judkins and Julia A. Judkins, both of Patten, are hereby dissolved.

[Approved August 13, 1849.]

Chapter 287.

An act to establish the Penobscot and Kennebec Railroad Company.

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

Corporators.

SECT. 1. Iddo K. Kimball, Henry C. Lowell, Henry Ingraham, Francis W. Rhoades, James Seavey, Henry E. Ingraham, Thomas W. Hix, Joseph C. Libbey, John Wakefield, Heman P. Harden, Ezekiel Perry, Freeman Harden, Charles W. Snow, Elkanah S. Smith, John C. Cochran, Cyrus Cotter, William Hitchcock, Joseph Day, Henry Mellus, Rufus Flye, John R. Coffin, Jacob L. Shuman, Jacob Chapman, Benjamin Chapman, Abner Stetson, William Curtis, Daniel Day, Isaac Pool, Benjamin D. Metcalf, James B. Hall, Thomas J. Merrill, Nathaniel Clapp, William Hall, Edwin Flye, David W. Chapman, Horace Hatch, Thatcher T. Wales, Thomas Hall, E. Wilder Farley, Albert Glidden, Joseph Stetson, John Glidden, Edward A. Glidden, James Hovey, Joseph Clark, John Sider, James R.

Groton, Isaac Reed, Bela B. Haskell, Frederick Castner, George D. Smouse, Knott Crockett, Iddo Kimball, John Spear, Edward Robinson, Benjamin Carr, Edward O'Brien, William Singer, Moses R. Ludwig, Charles Holmes, Joseph Hewett, Atwood Levensaler, Rufus C. Counce, Edwin Smith, Amos H. Hodgman, Peter Fuller, Manasseh H. Smith, Richard H. Tucker, John D. McCrate, Alexander Johnston, Franklin Clark, Samuel E. Smith, John Johnston, Benjamin F. Tallman, Williard McGown, James Erskine, Henry Tallman, Thomas D. Robinson, Joseph Sewall, Jacob Smith, William D. Sewall, George F. Patten, John Patten, James Patten, Levi Houghton, Freeman Clark, John Henry, Allen Lewis, Thomas Hodgdon, John Reed, David C. McGown, James McLellan, John G. Richardson, Charles Crocker, William D. Crockett, William McLoon, George Thorndike, Hiram Chapman, Thomas O'Brien, Thomas Merrill, Josiah Winslow, Snow Winslow, Joshua Benner, Isaac Umberhind, James Genthner, their associates, successors and assigns, are hereby made and constituted a body politic and corporate, by the name of the "Penobscot and Kennebec Railroad 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, construct and finally complete, alter, and keep in repair a railroad 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 the town of East Thomaston, running westwardly and southwardly through said town, and through the county of Lincoln to the Kennebec river at some point opposite the city of Bath. Said railroad to be located and constructed on such route, as the directors of said corporation in the exercise of their best judgment or 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 are hereby 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 take and

Corporate name.

Powers, privileges and liabilities.

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

Course and direction of route.

Right to purchase or take and hold real estate.

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—to take and remove earth, gravel or 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 immunities.

When said corporation shall take any land of any infant, person non compos mentis, or feme covert.

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 railroad; and they shall also have the right to take, remove and use for the construction and repair of said railroad 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 estate or materials so taken and used, such price as they and the owners thereof may mutually agree upon; 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 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 railroad shall pass through any woodlands or forests, the said company shall have the right to fell or remove any trees standing therein, within four rods 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 railroads, 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 land 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 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.

SECT. 3. The capital stock of said corporation shall consist of not less than ten thousand nor more than twenty 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 duty, 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 not less than twenty thousand dollars, for the faithful discharge of his trust.

Capital stock.

Directors.

Tenure of office.

Quorum.

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 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 railroad, 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

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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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.

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.

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

Regulations respecting connecting railroads.

SECT. 7. Said corporation shall receive and transport all persons, goods and property of all descriptions which may be carried or transported to the railroad of said corporation, on such other railroads 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 railroads, so connected with said railroad as aforesaid shall not exceed the general rates of freight and toll on said railroad received for freight and passengers, at any of the depots of said corporation.

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

SECT. 8. If the said railroad in the course thereof shall cross any private way the said corporation shall so construct said railroad as not to obstruct the safe and convenient use of such private way. And if the said railroad shall in the course thereof cross any canal, turnpike, railroad, or other highway the said railroad 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 railroad, if necessary, may conveniently pass under or over the same, and erect such gate or gates as may be necessary for the safety of travel-

ers 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 railroad over any canal, turnpike, highway or private way or for conducting such turnpike, highway or private way over said railroad.

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To maintain in good repair all bridges, &c., which they may construct.

SECT. 9. If said road, shall in the course thereof cross any tide waters, navigable rivers, streams or ponds, the said corporation are hereby authorized and empowered to erect for the sole and exclusive travel on their said railroad a bridge or bridges across each of said rivers, streams, ponds or any such tide waters: *provided*, said bridge or bridges shall be so constructed as not unnecessarily obstruct or impede the navigation of said waters.

Power to bridge any rivers, &c.

SECT. 10. Said corporation shall erect and maintain substantial, legal and sufficient fences on each side of the land taken by them for their railroad 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 railroad 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 and 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 railroad, 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

Bound to keep said railroad in good repair, with suitable engines, carriages, &c.

Lien for toll.

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

Proviso.

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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 U. S. mail.

SECT. 12. The said corporation shall at all times when the postmaster-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 postmaster-general shall be unable to agree upon the compensation aforesaid, the legislature of the 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 railroad, or in any way spoil, injure or destroy said railroad, 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 any 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 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 to the inspection at all times, of the governor and council, and 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.

Taxation of estate.

SECT. 15. All the real and personal estate purchased by said

corporation for the use of the same shall be deemed personal estate, and the shares owned by the respective stockholders in said corporation, shall 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 twelve 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 railroad accruing thereafter, over and above twelve 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.

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

No other tax shall be levied on said road.

SECT. 16. The annual meeting of the members of said corporation shall be holden on the first Monday of September, 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, by giving such notice as the corporation, by their by-laws shall direct.

Annual meetings.

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 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. 18. If the said corporation shall not have been organized, and the location of the route of said railroad according to actual survey filed with the county commissioners of the county of Lincoln on or before the thirty-first day of December, in the year of our Lord one thousand eight hundred and

Time for location and completion of said road.

CHAP. 288. fifty-six or if said corporation shall fail to complete said railroad on or before the thirty-first day of December, in the year of our Lord one thousand eight hundred and sixty-three, in either of the abovementioned 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 city of Bath and the town of East Thomaston, and such other towns or cities 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

Books of subscription to be opened.

SECT. 20. And for the purpose of receiving subscriptions to the capital stock of said railroad, 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 city of Bath and the town of East Thomaston 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 the city of Bath and the town of East Thomaston, 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 twenty 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 of the time and places to be given.

Regulations.

[Approved August 13, 1849.]

Chapter 288.

An act to incorporate the Portland Gas Light Company.

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

Corporators.

SECT. 1. Charles Q. Clapp, A. W. H. Clapp, John Neal, Abner Crowell, Francis O. J. Smith, Horace V. Bartol and Henry B. McCobb, their associates and successors are hereby constituted a body politic and corporate by the name of the

Corporate name.

Portland Gas-Light Company, and by that name shall have and enjoy all the necessary powers and privileges to effect the objects

Powers and duties.