

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1853.

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

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1853.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1853.

SECT. 5. Any policy issued by said company, signed by the president, and countersigned by the secretary of said company, shall be deemed valid. CHAP. 43.
Policies, when valid.

SECT. 6. No policy shall be issued by said company until application for insurance shall be made by at least fifty persons. Policies, when issued.

SECT. 7. The first meeting may be called by any one of the persons named in this act, by posting up in some public place in said Buckfield, notice of the time and place for such meeting; at which time and place of said meeting, the members present shall elect not less than five nor more than nine directors, who shall hold their respective offices for one year, and also a president and secretary, who shall hold their offices each for one year, and thereafter said officers shall be elected annually. First meeting.

Directors, election of.

President and secretary, election of.

SECT. 8. Said president and directors shall superintend the concerns and have management of all the funds and property of said company; and the said board shall have power to fill any vacancies which may occur by death, resignation or otherwise. Directors, duties and powers of.

SECT. 9. The members, at any legal meeting called for the purpose, may make such by-laws as may be deemed necessary; which by-laws shall be binding on each and every member of said company, if not repugnant to the provisions of this act, or any of the general laws of this state, relating to similar companies. By-laws.

SECT. 10. This act shall take effect on and after its approval by the governor.

[Approved March 7, 1853.]

Chapter 43.

An act to incorporate the Saco River Railroad Company.

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

SECT. 1. Philip Eastman, Richard M. Chapman, Tristram Jordan, junior, Daniel E. Somes, Jarvis Williams, John M. Goodwin, Thomas Carll, John Quimby, Joseph Hobson, Tobias Lord, John Jameson, Israel B. Bradley, John W. Dana, William P. Haines, Daniel Cleaves, Amos Chase, Isaac Dyer, Edward L. Osgood, Peleg Wadsworth, James Smith, junior, Daniel Smith, junior, Isaiah Warren, David Hammons, Nathaniel M. Towle, Oliver Dow, James M. Deering, Amos H. Boyd, Abraham Cutter, George H. Adams, Louis O. Cowan, Rushworth Jordan, junior, and Nathaniel J. Miller, their associates, successors and assigns, are hereby made and constituted a body politic and corporate Corporators.

CHAP. 43.

Corporate
name.General powers
and duties.Authorized to
locate and
construct
railroad.

Location.

Powers,
privileges, &c.May purchase
and hold
estate.Authorized to
take certain
materials.

Proviso.

Further
proviso.Price of
materials, &c.,
taken, how
determined.Application for
damages, when
made.

by the name of the Saco River 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 near the tide waters of Saco river, up the valley of said Saco river, through such of the towns adjacent thereto as may be deemed most favorable, and best calculated to promote the objects contemplated thereby, to the line of the State of New Hampshire. 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 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 it may agree upon with the owners thereof; and in case said parties shall not otherwise mutually agree, then said corporation shall pay such damages as shall be ascertained and determined by the county commissioners of 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 land taken and appropriated for public highways; and no application to said commissioners to estimate such damages shall be sustained, unless made within two years from the time of taking such land or other property; and in case said railroad

shall pass through any wood-lands 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 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, and also subject to all general laws which may hereafter be passed concerning railroads.

CHAP. 43.

Right to fell
and remove
trees.

Subject to
provisions of
ch. 81, R. S.

SECT. 2. When said corporation shall take any land or other property as aforesaid, of any infant, person non-compos mentis, or married woman, the guardian of such infant or person non-compos mentis, and such married woman 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.

Lands taken
from persons
under guard-
ianship, &c.,
damages, how
adjusted.

SECT. 3. The capital stock of said corporation shall consist of not less than two thousand, nor more than ten thousand shares; and the immediate government and direction of the affairs of said corporation, shall be vested in seven or nine 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 their board, who shall also be president of the corporation, and shall also 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 acceptance of the directors, in a sum not less than twenty thousand dollars for the faithful discharge of his trust.

Capital stock.

Government to
be vested in
a board of
directors.

President.

Clerk.

Treasurer.

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 the state, for their own government, and for the due and orderly conducting of their affairs and management of their property.

By-laws, &c.

SECT. 5. The president and directors for the time being are hereby authorized and empowered, by themselves or their agents,

President and
directors,
powers and
duties of.

CHAP. 43.

May purchase
land,
materials, &c.

Assessments,
how made, &c.

Notice, how
given.

Assessments,
neglect to pay,
proceedings in
case of.

Shares of
delinquent
subscribers,
how disposed
of.

Proviso.

Toll.

Transporta-
tion, con-
struction, &c.

Transporta-
tion of
passengers,
merchandise,
&c., from
other roads.

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 object of this grant; to purchase 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 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 is 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 shares in said corporation to a greater amount in the whole than one hundred dollars.

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 relating to the use and operation of said road, shall conform to such rules, regulations and provisions as the directors shall from time to time prescribe, order and direct.

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.

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 highway, the said railroad shall be so constructed as not to obstruct the safe and convenient use of such canal, turnpike or 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 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 railroad over any canal, turnpike, highway or private way, or for conducting such turnpike, highway or private way over said railroad.

Private ways,
crossing of.

Canals, turn-
pikes, &c.,
crossing of.

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

Navigable
waters, &c.,
crossing of.

Proviso.

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 inclosed 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 supreme judicial 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.

—liable to
indictment for
neglect to
build.

SECT. 11. Said corporation, after it shall commence receiving tolls, shall be bound at all times to have said railroad in good

Duty and
obligation of
company to

CHAP. 43.

keep road in repair, &c.

Obliged to transport passengers, &c., after payment of tolls.

Lien created for payment of tolls.

Cars and engines of other roads prohibited from passing over said road.

Proviso.

Mail, transportation of.

In case of disagreement, how determined.

Malicious mischief, trespass, &c.

Forfeiture, punishment, &c.

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 or 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 obliged to transport over said road the passenger and other cars of any other incorporated company, whose railroad may be connected with the railroad of this company, 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.

SECT. 12. 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 corporation shall be bound thereby.

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, or any other officer thereto authorized by the directors, in the name and to the use of the 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, and be imprisoned for a time not exceeding five years, at the discretion of said court.

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 railroad.

Account of
disbursements,
&c., how kept.

Annual
exhibit.

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 therefor against said corporation to recover the same, but no other tax than herein is provided shall be levied or assessed on said corporation or any of its privileges, property or franchises.

Estate of the
company to be
deemed
personal.

Stock, where
taxable.

Net income
over 12 per
cent., how
disposed of,
&c.

SECT. 16. The annual meeting of the members of said corporation shall be holden on the second Tuesday 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 stockholder by himself or proxy being entitled to as many votes as he holds shares; and the directors shall call special meetings of the stockholders, whenever they shall deem it expedient and proper, by giving such notice as the corporation by its 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

Legislature,
right to
investigate

CHAP. 43.

the doings
of said
corporation.

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 herein set forth and enjoined; but not to impose any other or further duties, liabilities or obligations.

Time for
organizing
limited.

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 several 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-nine, 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-five, in either of the above mentioned cases, this act shall be null and void.

Completion
of road
limited.

First meeting,
how called.

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 in the city of Portland, and the towns of Saco and Biddeford, of the time and place and purposes of such meeting, at least twenty days before the time named in such notice.

Books for
subscription,
when opened,
&c.

SECT. 20. 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 Portland, and the towns of Saco and Biddeford, 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 subscriptions, public notice shall be given in some newspaper published in the city of Portland, and the towns of Saco and Biddeford, twenty days at least, previous to the opening of said books of subscription; and in case the amount subscribed, shall exceed ten thousand shares, the same shall be distributed among all the subscribers, according to such regulations as the persons having charge of the opening of the books of subscription, shall, before the opening thereof, prescribe and determine.

Notice to be
given.

Amount of
subscription
exceeding
10,000 shares,
how dis-
tributed.

[Approved March 7, 1853.]