

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

PASSED BY THE

EXTRA SESSION OF THE THIRTY-SECOND LEGISLATURE, 1853,

AND THE

## THIRTY-THIRD LEGISLATURE

OF THE

## STATE OF MAINE,

1854.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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1854.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1854.

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CHAP. 359. ratified and confirmed, and said assignment shall have the same effect, and shall be binding upon all parties in interest, as if made after the passage of an act authorizing the same, and said assignees shall have all the rights of an assignee at common law to enforce said judgment, and to collect the money due thereon, for the benefit of themselves and their assigns, and shall be entitled to possess and enjoy all accessories thereto.

[Approved April 15, 1854.]

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### Chapter 359.

An act to establish the Kennebec and Wiscasset Railroad Company.

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

Corporators.

SECT. 1. Thomas J. Southard, Marshall S. Hagar, Daniel Witham, John B. Stuart, Ezra Abbott, James M. Hagar, C. B. Foster, T. R. Theobald, J. C. Boynton, George W. Chase, Benjamin F. Tallman, Elias Colby, William H. Sturtevant, Abiel Avery, George H. Hatch, James Carney, junior, J. R. Blanchard, Libby Plummer, Samuel Toothaker, Edward E. Houdlett, Franklin Clark, Cavalier Houdlett, Wilmot Wood, Alexander Johnston, Richard H. Tucker, Henry Clark, Patrick Lennox, Alex. Johnston, junior, Daniel Stone, Elisha J. Taylor, E. B. Bowman, Wales Hubbard, Joseph K. Clark, John C. Harriman, Thomas B. Johnston, James Stinson, James Lowell, William Stacy, Silas L. Young, Samuel P. Baker, Richard Sanders, Thomas Cunningham, James Taylor, Elbridge G. Webber, George B. Wood, William P. Lennox, Elisha McKenney, John Babson, Henry Ingalls, Daniel Carr, David G. Stinson, their associates, successors and assigns, are hereby made and constituted a body politic and corporate by the name of the "Kennebec and Wiscasset 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 enjoined; and to prevent all invasion thereof or interruption in exercising 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,

Corporato name.

Rights, powers,  
&c.

Railroad,  
location and  
construction of,  
authorized.

turnouts, culverts, drains and other necessary appendages, from some point on the Kennebec river in the town of Pittston or Dresden to some point on the Sheepscot river in the town of Wiscasset. Said railroad to be located and constructed on such route as the directors of said corporation in their best judgment shall judge most favorable and best calculated to promote the public convenience and to carry into effect the 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 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 the said lands 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 shall 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 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 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 railroad, which by their liability to be blown down or by their natural falling might obstruct or impair said railroad, 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 and immunities and be subject to all the duties

Railroad,  
route of.

Powers,  
privileges, &c.

Right to take  
materials for  
construction of  
road, &c.

Proviso.

Compensation  
for materials,  
&c., taken.

—how deter-  
mined, in case  
of disagreement.

Application for  
damages to be  
made within  
two years.

Obstructions,  
company  
authorized to  
remove.

—compensation  
for.

Further  
powers, &c.

CHAP. 359. and liabilities provided and prescribed respecting railroads in chapter eighty-one of the revised statutes not inconsistent with the express provisions of this act.

Damages for land, &c., taken, belonging to persons under guardianship, how adjusted.

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.

Capital stock and shares.

SECT. 3. The capital stock of said corporation shall consist of not less than one thousand shares and not more than five thousand shares, of fifty 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 till 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 a faithful discharge of his duty; and a treasurer, who shall be sworn, and also give bond to the corporation, with sureties to the acceptance and satisfaction of the directors, in a sum not less than ten thousand dollars for the faithful discharge of his trust.

Directors.

President.

Clerk.

Treasurer.

By-laws.

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.

President and directors, power and authority of.

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 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, 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 fifty 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 upon said road, at such rates as may be agreed upon and established; from time to time, by the directors of said corporation; the transportation of persons and property, the construction of wheels, the forms of cars and carriages, the weights of loads, and all other matters and things, in relation to 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.

SECT. 7. Said corporation shall receive and transport all persons, goods and property of all description which may be carried or transported by the railroad of said corporation, or 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

## CHAP. 359.

Assessments.

—notice of.

—on shares of delinquent subscribers, how collected, &amp;c.

Proviso.

Toll, transportation, construction, &amp;c., to be under the direction of the directors.

Toll for transportation to and from other roads regulated.

CHAP. 359. freight and toll on said railroad received for freight and passengers at any of the depots of said corporation.

Not to obstruct any highway or private way.

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, said railroad shall be so constructed as not to obstruct the safe and convenient use of such canal, turnpike or other highway; and 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.

Company shall maintain gates, bridges, &c.

Authorized to erect bridges over tide waters, ponds, &c.

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 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 to obstruct or impede the navigation of said waters.

Proviso.

Shall erect and maintain fences.

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 by the grand jury in the county where such fence shall be insufficient, and be fined in such sum as may 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 the court in which the indictment shall be found, as in the case of fines imposed upon towns for deficiency of highways.

Penalty for neglect.

Fine, how appropriated.

Duties and obligations of company, after the commencement of receiving tolls.

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 hereinafter 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.

Lien for payment of toll.

Engines, cars, &c., of other roads, prohibited from passing over said road.

Proviso.

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 places on said road as required, for a fair and reasonable compensation; and in case the corporation and 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.

Mail, U. S., transportation of.

—compensation for, how determined in case of disagreement.

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 anything 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, for 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,

Malign mischief, &c., penalty for, and how recovered.

CHAP. 359. 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, or may be imprisoned not exceeding five years, at the discretion of said court.

Disbursements, expenditures, &c., how kept.

Books open for inspection of governor and council, &c.

Annual exhibit to be made to the legislature.

Property of corporation to be deemed personal estate.

—where taxable.

Special report of directors.

Net income over twelve per cent. to be paid into the treasury of state.

Annual meeting.

Directors, how chosen.

Special meetings

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.

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, and 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 the railroad accruing thereafter, over and above twelve per cent. 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 said 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.

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.

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.

Right of legislature to investigate the doings of the 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 counties through which said road may pass, on or before the thirty-first day of December, in the year eighteen hundred and fifty-seven, or if said corporation shall fail to complete said railroad on or before the thirty-first day of December, in the year eighteen hundred and sixty-four, in either of the above mentioned cases this act shall be null and void.

Act to become void in certain cases.

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 the Lincoln Democrat of the time, place and purposes of said meeting, at least twenty days before the time named in said notice.

First meeting.

SECT. 20. And for the purpose of receiving subscriptions to the capital stock of said railroad, books shall be opened under the direction of persons named in the first section of this act, at such time and places as they may determine and appoint, to remain open at least ten successive days, of which times and places of subscription public notice shall be given in the Lincoln Democrat, twenty days at least previous to the opening of said books of subscription; and in case the amount subscribed shall exceed five thousand shares, the same shall be distributed among all the subscribers according to such regulations as the persons having the charge of the opening of the books shall, before the opening thereof, prescribe and determine.

Books of subscription to be opened.

—notice of, how given.