

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTIETH LEGISLATURE,

OF THE

STATE OF MAINE.

1871.

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1871.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1871.

Chapter 530.

CHAP. 530.

An act to incorporate the Old Orchard Railroad Company.

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

SECT. 1. Francis Milliken, Bradbury Seavey, Ebenezer C. Staples, Michael N. Milliken, all of Saco, in the county of York, and State of Maine, their associates, successors and assigns, are hereby made and constituted a body corporate and politic by the name of the Old Orchard Railroad Company, and by this 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 is hereby authorized and empowered to locate, construct and finally complete 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 or near Milliken's crossing, or from some other point within the corporate limits of the city of Saco and upon the line of the Portland, Saco and Portsmouth Railroad, as shall be most convenient, to some point upon or adjacent to old orchard beach, in said Saco, for the purpose of affording facilities for reaching said beach; and said corporation is 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 to take and hold, so much of the land and 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 land so taken; *provided however*, that the 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, estates or materials so taken and used, such price as they and the owner or respective owners thereof may mutually agree upon; and in case said parties shall not otherwise agree, said corporation shall pay such damages as shall be ascertained and determined by the county commissioners for the county of York, 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;

Corporators.

Corporate name, rights, &c.

Location and construction, route, &c.

Lands may be taken for location, &c.

Proviso.

Damages, how and by whom determined.

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Application for estimate of damages, time limited for making.

Trees, removal of, and compensation for same.

Capital stock and shares.

Directors and term of office.

President, clerk and treasurer, their duties.

Subscription books, by whom and when opened.

Notice.

Land taken from certain persons, settlement of damages for.

President and directors, powers of.

and the land so taken by said corporation shall be taken and held as lands appropriated for highways. No application to said county 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 railroad shall pass through any woodland or forest, the said company shall have the right to fell and 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 railroad, 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 one hundred nor more than one thousand shares, of the par value of one hundred dollars each; and the immediate government and direction of the affairs of said corporation shall be vested in five 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 bond to the corporation with sureties to the satisfaction of the directors in a sum not less than one thousand dollars for the faithful discharge of his trust; and for the purpose of receiving subscriptions to the said stock, books shall be opened under the direction of the persons named in the first section of this act, at such times as they may determine, in the city of Saco 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 some newspaper published in the county of York, ten days before the time mentioned in such notice.

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, 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.

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 purposes of locating, constructing and completing said railroad, 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 object of this grant, to purchase and hold land, materials, engines, houses, 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 this 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 or shall be prescribed by the by-laws of said corporation, the directors may order the treasurer to sell such share or shares at public auction, after giving such notice as may be prescribed as aforesaid, to the highest bidder, and the same shall be transferred to the purchaser, and such delinquent subscriber or stockholder, shall be held accountable to the corporation for the balance, if his share or shares shall sell for less than the assessments due thereon, with the interest and costs of sale, and shall be entitled to the overplus, if his share or shares shall sell for more than the assessments due, with interest and cost of sale; *provided however*, that no assessments shall be laid upon any share in said corporation of a greater amount in the whole than one hundred dollars.

Assessments.

Treasurer to give notice of assessments.

Delinquent stockholders, remedies against.

SECT. 5. A toll is hereby granted and established for the sole benefit of the 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 upon and established from time to time by the directors of said corporation, the transportation of persons and property, construction of wheels, the form of cars and carriages, the weights of loads and all other matters 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.

Toll upon passengers and property.

Transportation, construction and form of rolling stock, &c., how regulated.

SECT. 6. The legislature may authorize any other company or companies to connect any other railroad or railroads with the railroad of said corporation at any point on the route of said railroad, and said corporation shall receive and transport all persons, goods and property of all descriptions, which may be carried and transported to the railroad of said corporation on such other railroads 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 and goods and other property as may be received from such other railroads so connected with said road as aforesaid, shall not exceed

Connections with other companies authorized.

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

Crossings.

SECT. 7. If 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 said railroad shall in the course thereof, cross any canal, railroad or the highway, the said railroad shall be so constructed as not to obstruct the safe and convenient uses 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 railroad 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 travellers on said railroad, highway or private way, and shall keep all bridges and embankments necessary for the same in good repair.

Bridges.

Fences.

SECT. 8. Said railroad corporation shall erect and maintain substantial, legal and sufficient fences on each side of the land taken by them for their railroad, where the same passes through enclosed or improved lands, or lands that may be hereafter improved.

U. S. mail, transportation of.

SECT. 9. Said corporation shall at all times, when the postmaster 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 postmaster general shall be unable to agree upon the compensation aforesaid, the legislature of the state shall determine the same, and the said corporation, after they shall commence receiving of tolls, shall be bound at all times to have said railroad in good repair, and a sufficient number of suitable engines, houses, carriages, and vehicles for transportation of persons and articles, and be obliged to receive at all proper times and places and carry 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 railroad other than its own, furnished and provided for that purpose as herein enjoined and required; *provided however*, that said corporation shall be under obligation to transport over said road the passenger and other cars of any other incorporated company that may hereafter construct a railroad connecting with that hereby authorized, such other company being subject to all provisions of the fifth and sixth sections of this act, as to rates of toll and all other particulars mentioned in said sections.

Facilities for transportation of persons and articles.

Proviso.

Passengers and cars of any other company connecting, subject to sects. 5 and 6, as to rates of tolls, &c.

SECT. 10. If any person shall wilfully and maliciously or wantonly and contrary to law, obstruct the passage of any carriages on such 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 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 offence, 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 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 offences contrary to the above provisions, and 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.

Malicious trespass and penalties therefor.

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 and exhibit under oath, to the legislature, a full account of the profits derived from the income of said railroad.

Accounts to be opened to state authorities.

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 city of Saco, 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 said city 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 railroad, 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 in the treasury

Taxes, &c., where assessed.

Report of income, &c., when to be made to Legislature.

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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 ever be levied or assessed on said corporation or any of their privileges or franchises.

Annual meeting,
time and place of.

SECT. 13. The annual meeting of the members of said corporation shall be holden on the first Monday in January, 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.

Proxy.

The legislature
may inquire into
the doings and
management of
the corporation.

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

Organization.

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 or city officers in Saco, in which the same shall be located, on or before the thirty-first day of December, in the year of our Lord one thousand eight hundred and seventy-six, or if the 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 eighty, in either of the above mentioned cases this act shall be null and void.

Location to be
made on or before
31st day of Dec.,
1876.

Charter limited.

SECT. 16. This corporation is hereby authorized by a majority vote of its stockholders at a legal meeting, to lease, sell and transfer to any railroad company that it may connect with, all rights, privileges and franchises, and all property, real and mixed, acquired by virtue of this act, and the railroad company is hereby authorized to take by lease or purchase, the rights, franchises and property of said corporation, established by virtue of this act, and may enter into contract for operating the line of said railroad company, and to subscribe to the stock of the said Old Orchard Railroad Company; and the company mentioned in this act may by a majority vote of the stockholders, enter into such contract of union with the railroad that it connects with, as may be promotive of their mutual advantage; and this corporation is further authorized and empowered by a majority vote of its stockholders at a

Lease and trans-
fer of company's
property
authorized.

legal meeting, to lease, sell and transfer to any railroad corporation in this state, all the rights, privileges and franchises, and all property, real and personal, acquired by virtue of this act. And said company is hereby authorized, by vote of its stockholders, to sell or lease in the same manner as any other railroad corporation in this state.

SECT. 17. This act shall take effect when approved.

Approved February 1, 1871.

CHAP. 531.

Stockholders may sell and transfer all the property acquired by virtue of this act.

Chapter 531.

An act to incorporate the Kennebec and Moosehead Ice Company.

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

SECT. 1. Charles A. White, Elbridge Drake, Enoch Miller, James D. White, E. D. Haley, Joseph Siphers, Benjamin Johnson, Edward K. Butler, their associates, successors and assigns, are hereby constituted and declared to be a body politic and corporate, by the name of the Kennebec and Moosehead Ice Company, and by that name may sue and be sued, plead and be impleaded, use a common seal, and make by-laws for the management of their affairs not repugnant to the constitution or the laws of the state, and to have and enjoy all the powers and privileges, and be subject to all the duties and liabilities incident to similar corporations in this state.

Corporators.

Corporate name.

Powers and privileges.

SECT. 2. The capital stock of said corporation shall not be less than twenty thousand nor more than one hundred thousand dollars, to be divided into shares of twenty-five dollars each.

Capital stock and shares.

SECT. 3. Said company is hereby authorized to purchase and hold such real and personal estate as a majority in interest of said stockholders may determine to be convenient and necessary to effect the object and carry out the purposes of their corporation, and to sell and to dispose of the same as they may deem expedient.

May purchase and hold real and personal estate and sell and dispose of the same.

SECT. 4. For the purpose of facilitating the cutting and harvesting of ice from the Kennebec river, and to enable said company to remove, house, pack, load and ship the same, said corporation shall have the right to construct, erect, build and maintain upon their own land, or upon the land of others, by the consent in writing of the owners thereof, and in tide waters of the Kennebec river all necessary wharves, slips, piers and other constructions upon the margin of said river, in the city of Gardiner and town of Pittston, and to extend the same below low water mark, but not to interfere with navigation of said river or to impair the rights or privileges of any other person or corporation.

May build wharves, slips, piers, &c.