

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

331

OF THE

FIFTY-SECOND LEGISLATURE

OF THE

STATE OF MAINE.

1873.

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

AUGUSTA:
SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.

1873.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1873.

Chapter 394.

CHAP. 394.

An act to incorporate the Portland and Deering Railroad Company.

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

SECT. 1. Thomas Quinby, John Marshall Brown, Philip H. Brown, George Libby, Thomas W. O'Brion, Charles E. Bradley, Henry J. Fowler, Charles E. Jose, Edward M. O'Brion, Joseph C. Parker, Andrew Hawes, their associates and successors, are hereby constituted a corporation by the name of the Portland and Deering Railroad Company, with authority to construct, maintain and use a railroad to be operated by horse power, with convenient single or double tracks, from such point or points in the city of Portland, westerly of the easterly lines of Preble and Union streets, and from Commercial street by way of Union or any street west of it and Congress and Middle streets, upon and over such streets therein as shall from time to time be fixed and determined by the municipal officers of said city of Portland, and assented to in writing by said corporation, to the boundary line between said city and the town of Deering, and thence upon and over such streets, town and county roads in said town of Deering, not already occupied by the Portland railroad, as from time to time may be fixed and determined by the municipal officers of said town and assented to in writing by said corporation, to some point at or near the village of Stroudwater, and to such other point or points in said town of Deering, not already occupied by said Portland railroad, as may in like manner from time to time be fixed and determined by the municipal officers of said town and assented to in writing by said corporation ; said corporation shall also have authority to construct, maintain and use said railroad over and upon any lands, when the land damages have been mutually settled by said company and the owners thereof ; *provided however*, that all tracks of said railroad shall be laid at such distances from the sidewalks of said city of Portland and town of Deering as the municipal officers thereof respectively, in their order fixing the routes of said railroad, determine to be for public safety and convenience. The written assent of said corporation, to any vote or votes of the municipal officers of either said city or town, prescribing, from time to time, the routes of said railroad, shall be filed with the respective clerks of said city or town, and shall be taken and deemed to be the location thereof. Said corporation shall have power, from time to time, to fix such rates of compensation for transporting persons or property as it may think expedient, and generally shall have all the powers and be subject to all the liabilities of corporations as set forth in the forty-sixth chapter of the revised statutes. Rails shall not be laid down in

Corporators.

Corporate name.

Authority to construct railroad

Route.

Right to construct railroad over certain lands.

Proviso.

Tracks, how laid.

Location, how established.

Toll.

Powers and liabilities.

CHAP. 394.

Rails not be laid without assent of municipal officers
Location of route for term of 50 years.

—may be renewed.

Renewal, when and how made.

Condition for granting privileges to another corporation or person.

Terms, how determined.

Appraisers, appointment of.

—award of.

Preferences to be given to this company for the use of streets and roads.

Other companies may connect with and use track of this railroad.

Compensation and how determined.

said city or town without the assent of the municipal officers thereof respectively. The original location of the route, when granted, shall be for the term of fifty years. The same may be renewed from time to time for a term not exceeding twenty-five years at any one time, by said municipal officers, upon such terms as they may deem expedient. No such renewal shall be granted prior to two years before the expiration of the location then established. No location shall be granted or renewed except upon reasonable prior notice to all parties interested. If at the expiration of any of said terms the use of the streets, roads or highways occupied by said company's railroad is granted by the municipal officers of either said city or town, or both, to any other corporation or person, it shall be upon condition that such corporation or person shall purchase of said company all its property of every description, in necessary use for the purposes of said railroad, upon such terms as may be agreed upon by the parties or determined by persons selected by them, and if they are unable to agree, the value of the same shall be determined by three disinterested persons, appointed by a judge of the supreme judicial court, on application of either party, and hearing thereon. Said appraisers shall be sworn, give notice of the time and place of their meeting to examine and appraise said property, and shall make to each party a written award, and their services shall be paid in equal proportions by the parties. If the municipal officers of either said city or town, or both, determine, at the expiration of any of said terms, the use of the streets, roads or highways occupied by said company's railroad, shall be granted to any person or corporation for the purpose of a horse railroad, on the payment of any sum of money yearly, or in any other manner, said company shall have the preference, and such use shall be granted or renewed to said company, provided it will pay as much therefor as any other corporation or person. Any similar corporation hereafter incorporated which shall construct its road from Cape Elizabeth or Westbrook where the Portland and Deering Railroad Company have no track, may enter upon and connect with and use the track of the Portland and Deering Railroad Company for such rates of compensation as may be agreed upon, or in case of disagreement of the directors of the two companies, three disinterested persons shall be appointed by a judge of the supreme court, on application of either party, and a hearing thereon shall be had before said commissioners. Said commissioners shall be sworn, give notice of the time and place of their meeting to determine the matters in dispute, and shall make to each party a written, final decision of the points submitted; and their services shall be paid in equal proportions by the parties.

SECT. 2. Said railroad shall be operated and used by said corporation with horse power only. The municipal officers of said city of Portland and of said town of Deering respectively, shall have power at all times to make all such regulations as to the rate of speed and removal of snow and ice from the streets, roads and highways by said company at its expense, and mode of use of the track of said railroad within said city or town as the public convenience and safety require.

How operated.

Regulation of speed and removal of snow and ice, how made.

SECT. 3. Said corporation shall keep and maintain in repair such portion of the streets, town or county roads as shall be occupied by the tracks of its railroad, and shall make all other repairs of said streets or roads which may be rendered necessary by the occupation of the same by said railroad; and if not repaired upon reasonable notice, such repairs may be made by such city or town respectively, at the expense of said corporation, and said city or town may recover all expenses as aforesaid, in an action of money paid for the use of said railroad. In case the municipal officers of said town or city deem it advisable to pave or repave any street or road in which said railroad shall be located, said corporation shall at its own expense pave or repave, if deemed necessary, so much of said street or road as is occupied by the railroad, and if they fail to do so after reasonable notice from the municipal officers of said town or city, said town or city may pave or repave the same and recover the expense thereof of said corporation in an action for money paid for the use of such corporation. And said corporation shall be liable for any loss or damage which any person may sustain by reason of any carelessness, neglect or misconduct of its agents or servants, or by reason of any defect in so much of said streets or roads as is occupied by said railroad.

Corporation shall keep streets and roads occupied in repair.

In case of neglect, repairs, how made.

Corporation required to pave certain streets.

Proceedings in case of neglect.

Corporation liable for carelessness of its Agents or servants.

SECT. 4. If any person shall wilfully and maliciously obstruct said corporation in the use of its road or tracks, or the passing of the cars or carriages of said corporation thereon, such person and all who shall aid and abet therein, shall be punished by a fine not exceeding two hundred dollars, or may be imprisoned in a county jail for a period not exceeding sixty days.

Penalty for obstructing road.

SECT. 5. The capital stock of said corporation shall not exceed fifty thousand dollars, to be divided into shares of one hundred dollars each, and no share shall be issued for less than the par value.

Capital stock and shares.

SECT. 6. Said corporation shall have power to purchase and hold such real estate as may be necessary and convenient for the purposes and management of said railroad.

May hold real estate.

SECT. 7. Said railroad shall be constructed and maintained in such form and manner, and with such rail and upon such grade as the municipal officers of the said city of Portland and town of Deering respectively, shall from time to time prescribe and direct;

Railroad, how constructed and managed.

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Alterations, how made.

and whenever in the judgment of said corporation it shall be necessary to alter the grade of any street, town or county road occupied by its railroad, said alterations may be made at the sole expense of said corporation, provided the same shall be assented to by the municipal officers of said city and town respectively. If the tracks of said company's railroad cross or connect with any other railroad of any kind in either said city or town, and a dispute arises in any way in regard to the manner of crossing or connecting, said municipal officers of the town or city in which said proposed crossing or connection is to be made, shall upon hearing decide and determine in writing, in what manner the crossing or connection shall be made which shall be constructed accordingly.

Crossings and connections, how determined.

Right of city or town to take up roads or streets occupied by railroad.

SECT. 8. Nothing in this act shall be construed to prevent the proper authorities of said city or town, respectively, from entering upon or taking up any of the streets, town or county roads occupied by said railroad, for any purpose for which they may lawfully take up the same.

Act, when to be accepted.

SECT. 9. This act shall be void, unless the same shall be accepted by the said corporation, and ten per cent. of the capital stock thereof be paid within five years from its passage.

Bonds, corporation may issue.

SECT. 10. Said corporation is hereby authorized to issue bonds for the purpose of constructing its railroad, or for money which it may borrow for any purpose sanctioned by law ; but the bonds so issued, shall not exceed the amount of capital stock paid in by the stockholders. Said bonds may be issued in sums not less than one hundred dollars each, payable in not more than twenty years from their date, with interest payable semi-annually.

—when payable.

—how approved.

SECT. 11. Such bonds shall be approved by a majority of the finance committee of said corporation, who shall certify that each of said bonds is properly issued and recorded upon the books of the corporation. All bonds and notes which shall be issued by said corporation, shall be binding and collectable in law, notwithstanding such bonds or notes may be negotiated and sold by such corporation or its agents, at less than their par value.

—how secured.

SECT. 12. Such bonds shall be secured by a conveyance of the corporate property to three trustees by a suitable instrument of mortgage to secure the payment of said bonds.

Sinking fund.

SECT. 13. Said corporation shall pay semi-annually to said trustees, a sum equal to one per cent. on the amount of said bonds for the purpose of creating a sinking fund. Said trustees shall have the care and management of all the moneys, funds and securities belonging to said sinking fund, and they shall from time to time, at their discretion, invest the moneys on hand securely, and so that the same shall be productive, and the same may be invested in the bonds of said corporation, secured as aforesaid, or in the bonds of the United States, or of any of the New England states,

—how managed and invested.

or in the bonds or notes of any county, town or city in this state, or in the stock of any legally incorporated bank in this state, or may be loaned on interest, well secured by a first mortgage of real estate, to an amount not exceeding one-half the value thereof, or by a pledge of any of the bonds or stock aforesaid, and the said fund, with the accruing interest, shall constitute a sinking fund for the payment of said bonds.

SECT. 14. This charter is granted upon condition that said Portland and Deering Railroad Company shall not enter upon or connect with, or use the track of the Portland Railroad Company, excepting the tracks within the city of Portland, westerly of the easterly lines of Preble and Union streets, and the track in Deering, between the head of Pleasant street and the present terminus of said Portland Railroad in Deering, and also that its cars shall be run on the tracks of the Portland Railroad Company so as to conform to the time tables of said Portland Railroad Company, as established from time to time; and this charter, and the rights and privileges herein granted, are subject to the provisions of the charter of said Portland Railroad Company.

Rights and privileges subject to charter of Portland Railroad Co.

SECT. 15. The provisions of the forty-seventh section of the fifty-first chapter of the revised statutes, and of the thirteen sections of the same chapter, next following, are hereby made applicable to said bonds, and to said mortgage made to secure the same, but said corporation shall not be subject to the other general provisions of law relating to railroads.

Certain provisions of ch. 51, R. S., applicable to bonds of corporation.

SECT. 16. Nothing in this act shall deprive the legislature of its right to amend, alter or repeal said charter, or render said company independent of the general legislative power of the state.

Corporation subject legislative power of the state.

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

Approved February 27, 1873.

Chapter 395.

An act to incorporate the Officers and Members of the Cumberland Royal Arch Chapter.

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

SECT. 1. James J. Humphrey, H. C. Greenleaf, John P. Carswell, Frederick E. Mitchell, Augustus H. Humphrey, Joseph Raynes, Thomas L. Curtis, Herman Seabury and Edward Davis, their associates and successors, are hereby incorporated into a body politic by the name of the Officers and Members of Cumberland Royal Arch Chapter, to be established and have its place of business in the town of Yarmouth, in the county of Cumberland,

Corporators.

Corporate name.