

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

OF THE

## SIXTY-SEVENTH LEGISLATURE

OF THE

## STATE OF MAINE

1895.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1895.

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CHAP. 148 hold office in the town of Webster which they would have had if the territory so set off had been originally included within the limits of the town of Webster.

SECT. 2. This act shall take effect when approved.

Approved March 8, 1895.

### Chapter 148.

An Act to incorporate the Portland and Cape Elizabeth Railway Company, and to authorize the construction of the same across navigable tide waters.

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

SECT. 1. Jacob S. Winslow, Stephen R. Small, Albert D. Boyd, James H. Boyd and F. Coleman Boyd, their associates, successors and assigns, are hereby constituted a corporation by the name of Portland and Cape Elizabeth Railway Company, with authority to construct, maintain and operate by electricity or animal power, a street railway with convenient single or double tracks, side tracks, switches or turnouts, with all necessary or convenient lines of poles, wires, appliances, appurtenances, conduits and electric plants for motive power, beginning at the intersection of Cross and Free streets, in the city of Portland, and running thence on such one of the following three routes as may be fixed and determined by the municipal officers of the city of Portland within fifteen days after the approval of this act; through Middle street to Union street, thence through Union street to the intersection of Union street with Commercial street, thence through Commercial street to the Portland bridge by way of Commercial street and the street, road or open way running through the grounds of the Boston and Maine Railroad Company, or through and over such other grounds and ways as the said Portland and Cape Elizabeth Railway Company may determine and so on as hereinafter mentioned; or through Cross street to the intersection of Cross street with Commercial street, thence through Commercial street by the route mentioned above to the Portland bridge and so on as hereinafter mentioned; or through Free street to the intersection of Free street with Centre street, thence through Centre street to Commercial

Corporators.

Corporate name

—purposes.

—route; in Portland may be determined by municipal officers.

street, thence through Commercial street by the route mentioned above to the Portland bridge, and so on as hereinafter provided; but if the municipal officers of the city of Portland do not within fifteen days after the approval of this act designate one of said three routes for said railway company, then and thereafter said railway company shall have authority to construct, maintain and operate its railways and plant as mentioned above, beginning at the intersection of Cross and Free streets in the city of Portland and running thence through Cross street to the intersection of Cross street with Commercial street, thence through Commercial street to the Portland bridge, by way of Commercial street and the street, road or open way running through the grounds of the Boston and Maine Railroad Company, or through and over such other grounds and ways as the company may determine, thence upon, over, and across the land, flats and navigable tide waters on the easterly side of and adjoining said Portland bridge, and upon and over the draw and certain other parts of said bridge as herein authorized, to and into the town of Cape Elizabeth; and said Portland and Cape Elizabeth Railway Company is hereby further authorized to construct, maintain and operate by electricity or animal power a street railway, with convenient single or double tracks, side tracks, switches or turnouts, with all necessary or convenient lines of poles, wires, appliances, and electric plants for motive power in and through the said town of Cape Elizabeth, upon such streets, roads and highways in said town, as may, from time to time, be fixed and determined by the municipal officers of said town, and assented to in writing by said Portland and Cape Elizabeth Railway Company. Said corporation shall have authority to construct, maintain and operate said railway over and upon any lands where the land damages have been mutually settled between said corporation and the owners thereof. The written assent of said corporation to any vote of said town, or of the municipal officers thereof, prescribing from time to time, the routes of such railway, shall be filed with the clerk of said town. Said railway corporation shall have the 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

—route, in case municipal officers do not approve one.

—route in Cape Elizabeth, may be determined by municipal officers.

Written assent of corporation required.

Co. may fix rates.

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—may change location.

—location shall be for twenty-five years.

—may be renewed.

—notice shall be given, before any renewal.

—if at expiration of right, same shall be granted other persons, it shall be upon condition that such persons shall purchase property.

Co. shall have preference, when future right may be granted.

forty-sixth chapter of the revised statutes. Said corporation may change the location of said railroad at any time, by first obtaining the written consent of the municipal officers of said city of Portland and said town of Cape Elizabeth, and said county commissioners with reference to said county way and bridge, respectively, and make additional locations subject to the foregoing provisions and conditions, but shall not be compelled to change a location once established as above, within twenty-five years, excepting upon and over said Portland bridge, as herein provided. The original location of the route in the city of Portland and the town of Cape Elizabeth when granted, shall be for the term of twenty-five years. The same may be renewed from time to time for a term not exceeding fifty 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 in the city of Portland and the town of Cape Elizabeth 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 said city or town to any other corporation or person, it shall be on 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 the terms that may be agreed upon by the parties or determined by persons selected by them, and if they are unable to agree, the same shall be determined by three disinterested persons appointed by a justice 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 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 said city or town determine that, 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 purposes of a horse or electric railroad, on the payment of any sum of money 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 person or corporation.

SECT. 2. The municipal officers of said town and city, and the county commissioners with respect to said bridge, shall have the power, at all times, to make all such regulations as to form of rail, paving between and for eighteen inches outside of rails, grade of road bed, appliances and safeguards, rate of speed, and removal of snow and ice from the streets, roads and highways. by said company, as the public convenience and safety may require. Said corporation shall keep and maintain in repair such portions of the street, town or county roads and bridge as shall be occupied by the tracks of its railway and for a space of eighteen inches outside of each rail, and shall make all other changes and repairs of said streets and roads as may be rendered necessary by the occupation of the same by said railway.

Municipal officers and Co. commissioners, shall have power to regulate form of rail, grade and speed, and removal of snow and ice.

Co. shall keep in repair, such portion of streets as it occupies.

SECT. 3. Said corporation may erect and construct in such manner as shall be approved by said county commissioners a way and bridge for its tracks on the easterly side and adjoining said Portland bridge with an open draw therein for the passage of vessels, of the same width as the draw of said Portland bridge, and may, under such regulations as said county commissioners shall from time to time prescribe, lay its tracks on and over the draw of said Portland bridge and upon and over the easterly side of Portland bridge for such space or distance from the Portland end of said draw as said county commissioners shall prescribe for entering upon and leaving the same, and upon and over the easterly side of said bridge and highway from the Cape Elizabeth end thereof to said draw under such requirements as said county commissioners may from time to time prescribe, provided, that, after a period of five years from the construction of said road upon the Cape Elizabeth end of said bridge said county commissioners may upon notice and hearing, and without right of appeal, determine and prescribe that said corporation shall remove its tracks from the Cape Elizabeth end of said bridge or any part thereof excepting said draw, and such space from the southerly end thereof as said county commissioners shall prescribe for entering upon and leaving the same, and said corporation shall thereupon remove its said tracks and cou-

Authorized to construct bridge adjoining Portland bridge.

—lay tracks over the draw of Portland bridge.

—when Co. shall build its own bridge.

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Expense for widening Portland bridge, shall be borne by Co.

struct its own bridge and way upon the easterly side of said Portland bridge as herein authorized; and provided further, that if, at any time, said county commissioners or any court of competent jurisdiction shall determine that said Portland bridge and way shall be widened by the county, the expense thereof to the extent of eight feet in width for land damage, construction and repairs shall be borne by said corporation.

Co. shall erect and maintain all fences on bridge.

SECT. 4. Said corporation shall at all times erect and construct and maintain all such fences, partitions and other protections between its bridge and tracks and the highway over and upon said bridge as said county commissioners shall prescribe for the safety of the public in the use of said highway and bridge, and shall repair and pay all wear and damage of said Portland bridge and draw and highway caused by its use of the same and all damage and expense which said county may thereby suffer or incur. And in no case shall the county of Cumberland bear, assume or share any expenditure which is caused or necessitated by the location, construction or operation of said road.

May issue bonds and mortgage property.

SECT. 5. Said Portland and Cape Elizabeth Railway Company is hereby authorized to issue bonds in such amounts and on such time and terms as it may from time to time determine for any money which it may borrow, and secure the same by mortgages of its franchises, railways and property. All bonds which shall be issued by said company shall be binding and legal, notwithstanding such bonds may be negotiated and sold by said company or its agents at less than their par value.

May invest in summer hotels, etc.

SECT. 6. Said Portland and Cape Elizabeth Railway Company shall have power to aid, or invest its funds, in the construction, maintenance or carrying on of summer hotels, summer or shore resorts, or amusements at such resorts.

Capital stock.

SECT. 7. The capital stock of said corporation shall not exceed five hundred thousand dollars, to be divided into shares of one hundred dollars each, provided, however, that if the said capital stock is found by the directors of said corporation to be insufficient for carrying out the purposes and powers of said corporation, then said corporation may increase said capital stock from time to time to any amount, for the purposes provided for in this act. Such increase however, must be assented to by vote, either in person or by



proxy, of two-thirds in amount of all the stockholders, at a meeting thereof called by the directors for that purpose.

SECT. 8. Said corporation shall be liable for any loss or damage which any person may sustain by reason of any neglect or misconduct of its agents or servants, or by reason of any defect in said streets or roads occupied by said railway if such defect arise from neglect or misconduct of the corporation, its servants or agents. Said corporation shall be liable for all damages caused by its current to water and gas pipes.

Liabie for all damages.

SECT. 9. If any person shall willfully or maliciously obstruct such corporation in the use of its road, tracks or property, or the passage of cars or carriages of said corporation thereon, such person and all who aid and abet therein, shall be punished by a fine not exceeding two hundred dollars, or may be imprisoned in the county jail for a period not exceeding sixty days.

Penalty for obstructing corporation.

SECT. 10. Said corporation may lease, purchase, receive, let, dispose of, or hold such real and personal estate and motive power as may be necessary and convenient for the purposes and management of said railway and power plant and station.

May hold real estate.

SECT. 11. Said railway shall be constructed and maintained in such form and manner and with such rails and other appliances as may be deemed necessary by the corporation and may be approved by said city, town and county authorities respectively, and upon such grades as the municipal officers of said city or town and the county commissioners of Cumberland county with respect to said county way and bridge respectively may direct; and whenever in the judgment of said corporation it shall be deemed necessary to alter the grade of any street, town or county road, said alteration may be made at the expense of said corporation, provided, the same shall be assented to in writing by the municipal officers of said city or town and the county commissioners of Cumberland county, with respect to said county way and bridge respectively. If the tracks of said corporation's railway cross any other railway of any kind in either said city or town and a dispute arises in any way in regard to the manner of crossing, the board of railroad commissioners of the state, shall, upon hearing, decide and determine in writing, in what

Municipal and county authorities may prescribe form of rail and grade.

Manner of crossing other railroads, shall be determined by R. R. commissioners.

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manner the crossing shall be made and it shall be constructed accordingly.

Stock may be transferred to any person in consideration of any claim against corporation.

SECT. 12. The directors of said company shall have absolute power and authority to issue or transfer stock to any person or corporation in consideration of any claim or demand against said Portland and Cape Elizabeth Railway Company, or construction work done for said company, or in payment for any property, right or privilege granted to the company, and such stock may be issued in such amounts and on such terms as said board of directors may from time to time determine, and such stock shall be the same as if actual cash had been paid therefor, and shall be full paid and non-assessable stock.

May change location, by permission of municipal officers and Co. commissioners.

SECT. 13. Said corporation may change the location of any of its railways by first obtaining the consent of the municipal officers of said city or town or of said county commissioners with respect to said county way and bridge, and may make additional locations, subject to the foregoing provisions and conditions of this charter.

Authority of city, town and county, over streets, preserved.

SECT. 14. Nothing in this act shall be construed to prevent the proper authorities of said city, town or county from entering upon and temporarily taking up the soil, paving or planking in any city, town or county road occupied by said railway, or the tracks, planking and timbers of said railroad and its way across said tide waters, for any purpose for which said town, city or county may now lawfully take up the same, and for which said county authorities may deem it necessary to take up the same for purposes of reconstruction or repairs.

Exclusive right, granted.

SECT. 15. No other corporation or person shall be permitted to construct or maintain any railway for similar purposes over the same streets, roads or ways, that may be lawfully occupied by this corporation; but any person or corporation lawfully operating any street railway to any point to which this corporation's tracks extend, may enter upon, connect with and use the same on such terms and in such manner as may be agreed upon between the parties.

Other street railway may connect with.

Rights and liabilities.

SECT. 16. Said railway corporation shall have all the rights and be subject to all the liabilities of street railways under the laws of this state, except so far as this act is inconsistent therewith or makes provisions in regard to any special subject, power or matter.

SECT. 17. Said Portland and Cape Elizabeth Railway Company is hereby authorized to lease or sell its railways, property and franchises to any other connecting company or companies, or to unite and consolidate its stock, property, franchises and railways with those of any connecting company or companies, or take a lease of the railways, property and franchises of any other connecting company or companies, and to issue mortgage bonds in payment therefor; and all other connecting companies are hereby authorized to lease or sell their railways, property and franchises to this company, or to buy, or to take a lease of the railways, property and franchises of this company, or to unite or consolidate their stock, property, franchises and railways with those of this company.

May lease or sell its franchises to any connecting company.

SECT. 18. Said corporation shall not be required to run cars upon its road during the winter season, when the line of the road is blocked with snow and ice, or when the convenience or wants of the public do not demand it, except in the city of Portland, and from said Portland to the village of Willard in said town of Cape Elizabeth.

When running of cars may be discontinued.

SECT. 19. In the erection and maintenance of its poles, posts, lamps and wires, said corporation shall be subject to the general laws of the state, regulating the erection of posts and lines for the purposes of electricity.

Subject to general laws, in erection of lines.

SECT. 20. The first meeting of said corporation may be called by one of the corporators giving written notice to the others, of the time and place of the meeting, at least seven days before the meeting.

First meeting, how called.

SECT. 21. This act shall take effect when approved.