

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115-

OF THE

FORTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1870.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1870.

Chapter 381.CHAP. 381.

An act to enable the city of Bangor to extend further aid to the Bangor and Piscataquis Railroad Company.

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

SECT. 1. The city of Bangor is hereby authorized to make a further loan of its credit, in scrip to be hereafter issued, to the Bangor and Piscataquis Railroad Company, to aid in the completion and equipment of its railroad from Oldtown to Dover, and for other necessary purposes connected therewith, upon the following terms and conditions, and not exceeding the sum of one hundred and twenty-five thousand dollars.

Amount of loan.

SECT. 2. If this act shall be accepted as hereinafter provided, whenever the directors of said company shall from time to time, within one year from and after said acceptance, decide by their vote that it is for the interest of said company to receive a certain part of the scrip authorized to be issued for any of the above purposes, and the president of said company shall communicate said vote to the mayor and aldermen of said city, and request them, in writing, to issue and deliver to said company such part of said scrip as is required by said vote, then if said mayor and aldermen are satisfied that it will be for the interest of said company to receive a part of said scrip, authorized by this act to be used for any of said purposes, they shall thereupon certify that fact to the treasurer of said city, stating to him the amount of scrip to be issued and delivered at that time, and he shall forthwith issue and deliver to said company said scrip to said amount, and so on, till the whole amount of said scrip authorized by this act, shall, if necessary for said purposes, be delivered; said mayor and aldermen to decide whether the same be necessary. All of said scrip shall be signed by the city treasurer, and countersigned by the mayor of said city, and shall bear date of the first issue thereof, and be made payable to the holder thereof in such sums as said directors may determine, with coupons for interest attached, reckoned at the rate of six per cent. per annum, payable semi-annually, free of government tax, the principal payable on the first day of April, in the year of our Lord one thousand eight hundred and ninety-nine, in Boston; and be secured by the bond and mortgage of said company, hereinafter mentioned, which shall be executed and delivered to the city treasurer on the first issue of said delivery of any of said scrip.

Conditions.

Scrip, how signed, issued, and when made payable.

Bond and mortgage.

SECT. 3. Concurrent with the first issue and delivery of any part of said scrip as aforesaid, the president and directors of said company, in their official capacity, shall execute and deliver, or cause to be executed and delivered, to the treasurer of said city,

Company to issue bonds to city in double amount of scrip of city.

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Conditions of same.

Company further required to issue its scrip to city.

Same to be held as collateral, and sold by city in default of conditions.

Company, upon first issue of scrip, to deliver bond of company to city treasurer and mortgage of corporate property.

the bond of said company in the penal sum of double the amount of said city scrip authorized to be issued by this act; said bond shall be made payable to said city, and shall be conditioned that said company will duly pay the interest on such scrip of said city as shall be issued under and by virtue of this act, and said government tax, and also the principal thereof, according to the tenor of said scrip; and in all respects will hold and save harmless said city on account of the issue of the same; said president and directors shall also, in case of the issuing of said scrip of said city, as provided in section two of this act, and simultaneously therewith make, execute and deliver, or cause to be made, executed and delivered to said city treasurer, the scrip of said company, payable to the holder thereof at the same time and for the same amount as the scrip then issued and delivered by said city treasurer to said company, with like coupons for interest attached, which scrip shall be held by said city as collateral security for the fulfilment of the conditions of said bond, and in default of any one of said conditions said city may from time to time sell said scrip, or any portion thereof, by public auction or auctions, in the cities of Bangor, Boston or New York, or either of them, after sixty days notice in writing to the president, one of the directors or any three of the stockholders of said company, naming therein the time and place of sale. The net proceeds of all such sales shall be endorsed on said bond.

SECT. 4. The president and directors of said company are hereby authorized, and it shall be their duty in their official capacity, upon the receipt of the first issue and delivery of said city scrip, and upon the delivery of said bond of said company to said city treasurer to secure the payment of the same, to execute and deliver or cause to be executed and delivered to said city treasurer a mortgage of said railroad and of all the property of said company, real and personal, which said company then has or may thereafter acquire, together with the franchise of said company without prior incumbrance except as hereinafter mentioned, which mortgage shall be in due and legal form and executed according to the laws of this state, and contain apt and sufficient terms to secure to said city the fulfilment of all the conditions of said bond and said mortgage, so executed and delivered and recorded in the registry of deeds for the county of Penobscot, shall to all intents and purposes be and the same is hereby declared to be a full and complete transfer of said railroad of all the property of said company real and personal then owned by said company or subsequently to be acquired, wherever the same may be found or situated, and also of the franchise of said company, subject only to the conditions and exceptions contained in said mortgage.

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Said mortgage, property, real and personal, and said franchise, shall be subject to all mortgages heretofore given by said company to said city and now existing, and also to one other mortgage hereafter to be given by said company to said city, under and by virtue of the provisions of an act to authorize the city of Bangor to aid the construction of a railroad into Piscataquis county, passed February twelve, eighteen hundred and sixty-eight, and an act additional thereto, passed February eleven, eighteen hundred and sixty-nine, which mortgage said company reserves the right to give, on receiving the scrip of said city, to which said company may hereafter be entitled agreeably to the provisions of said two acts, which mortgage, when executed and recorded agreeably to the provisions of said two acts, is to have priority to said mortgage executed and delivered under the provisions of this act; *provided however*, that said city shall at all times, whenever the mayor and aldermen may so decide, after the issue of any scrip contemplated by this act, and before all the scrip thus issued shall be extinguished, have the right to take and hold possession of all the real and personal property of said company until said scrip shall be extinguished, subject only to the rights of said city under the mortgages hereinbefore mentioned, anything in this act to the contrary notwithstanding.

Mortgaged property to be subject to prior mortgages.

Proviso.

SECT. 5. For the purpose of foreclosing said mortgage for conditions broken, it shall be sufficient for the said mayor and aldermen to give notice according to the mode prescribed in the revised statutes for the foreclosure of mortgages by publication of notice thereof, which may be published in a newspaper printed in Bangor, and a record thereof made within thirty days after the date of the last publication in the registry of deeds for the county of Penobscot, which publication and record shall be sufficient for the purpose of such foreclosure. Upon the expiration of three years from and after such publications, if the condition shall not within that time have been fulfilled, the foreclosure shall be complete, and shall make the title to said road, and to all the said property, real and personal, and said franchise, absolute in said city. Said foreclosure shall not be considered as the foreclosure of any other mortgage now given, or hereafter to be given under said two acts, by said company to said city, nor shall any of the proceedings or remedies under, and by virtue of this act, in any way affect the rights and remedies of said city or of said company, under and by virtue of said other mortgages, and under and by virtue of said two acts.

Foreclosure, for conditions broken.

Upon expiration, foreclosure to be complete.

Said foreclosure not considered as foreclosure of any other mortgage.

SECT. 6. If the directors of said company shall at any time neglect or omit to pay the interest and said tax, which may become due upon any portion of the scrip issued and delivered under the provisions of this act, or to pay the principal as it becomes

Interest, non-payment of, or principal, or non-fulfilment of bond, city authorized to take possession of road.

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Notice. A written notice signed by the mayor and aldermen, and served upon the president or treasurer, or any director of said company, or, if there are none such, upon any stockholder of said company, stating that the city thereby takes actual possession of the whole line of the railroad, and of the property and franchise of the company, shall be a sufficient actual possession thereof, and shall be a legal transfer of the same, for the purposes aforesaid, to the city, and shall enable the city to hold the same against any other claims thereon, except the claims of said city hereinbefore mentioned, until such purposes have been fully accomplished.

Possession, how taken.

Moneys received, how applied.

SECT. 7. All moneys received by or for the said railroad company, after notice as aforesaid, from any source whatever, and by whomsoever the same may be received, shall belong to and be held for the use and benefit of the city in manner, and for the purposes herein provided, and shall, after notice given to the persons receiving the same, respectively be by them paid to the city treasurer, which payment shall be an effectual discharge from all claims of said company therefor; but if any person without such notice shall make payment of moneys so received to the treasurer of said company, such payment shall be a discharge of all claims of the city therefore, against such person. All moneys received by the treasurer of said company, after such notice, or in his hands at the time such notice may be given, shall be by him paid to the city treasurer, after deducting the amount expended or actually due for the running expenses of the road, for the services of the officers of the company, and for repairs necessary for conducting the ordinary operations of the road. Such payments to the city treasurer shall be made at the end of every calendar month, and shall be by him applied to the payment of all the interest and such tax, and principal due as aforesaid, and any person who shall pay or apply any moneys received as aforesaid in any manner contrary to the foregoing provisions, shall be liable therefor, and the same may be recovered in an action for money had and received in the name of the city treasurer, whose duty it shall be to sue for the same, to be by him held and applied as herein-after required.

Payments to be made to city treasurer monthly; how applied.

Liability for wrong application of money.

Suit in equity authorized.

SECT. 8. For the purpose of effecting the objects prescribed in the two preceding sections, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city of Bangor,

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in the supreme judicial court in the county of Penobscot, against said company, directors, or any other person, as may be necessary for the purpose of discovery, injunction, account, or other relief, under the provisions of this act; and any judge of the court may issue a writ of injunction or any other suitable process, or any such bill in vacation, or in term time, with or without notice, and the court shall have jurisdiction of the subject matter of such bills, and shall have such proceedings and make such orders and decrees as may be within the power and according to the course of proceedings of courts of equity, as the necessities of the case may require.

Injunctions, S. J. court, powers of, in relation to same.

SECT. 9. If the said company shall at any time, neglect or omit to pay the interest which may become due upon any portion of the scrip issued and delivered under the provisions of this act, or to pay the principal thereof, as it shall become due, or said government tax, or to comply with any of the provisions of said bond, then said city of Bangor may take actual possession of said road with all its appurtenances, and manage the same as fully as a board of directors of said company for the time being, may appoint the requisite officers and agents, and discharge the same, may fix the rate of fare and tolls, subject to the restrictions of the charter of said company, and may demand and receive the same, with the right to prosecute and defend suits in the name of said company, and may do all things which said company itself, or the directors thereof, might or could lawfully do, and after paying the running expenses, said city may apply sufficient of the earnings of said road to keep it and its buildings and equipment in repair, and to prevent any deterioration thereof, and to provide for such new rolling stock as may be necessary and then to apply the residue of said earnings to the payment of said interest, coupons, scrip or bond as aforesaid, and government tax; and whenever said interest, and all dishonored coupons, scrip or bonds, secured by said mortgage referred to in this act, shall have been paid, said city shall relinquish the control of said road, and deliver any property of said company in its possession to said company, or its assigns; *provided however*, said city, its officers or agents, while operating said road, under the provisions of this section, shall not be liable, except for malfeasance or fraud, and shall have the right to apply any funds received from the earnings of said road, to pay any damages that may arise in the management thereof, for which said city shall be liable in law to third parties; and the delivery back to said company any property of said company in its possession, shall be no discharge of its lien thereon, nor prevent said city from again taking possession of said road and property on any future breach of the condition of said bond.

Non-payment of interest or principal.

City may take possession, and appoint requisite officers, &c.

Powers of city in management of road.

Proviso.

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Neglect to choose directors.

Proceedings.

SECT. 10. If the said company shall after notice of possession as aforesaid, neglect to choose directors thereof, or other necessary officers, or none such shall be found, the mayor and aldermen of the city shall appoint a board of directors, consisting of not less than seven persons, or any other necessary officers, and the persons so appointed shall have all the power and authority of officers chosen or appointed under the provisions of the act establishing said company, and who shall, upon their acceptance of such offices, be subject to all the duties and liabilities thereof.

Liabilities incurred or assumed by city to create a lien on road, &c.

SECT. 11. As an additional or cumulative protection for said city, all liabilities which by said city may be assumed or incurred under or by virtue of any of the provisions of this act, shall at the time, and by force thereof, and for the security and payment of the same, create in favor of said city, a lien on the whole of said road, its franchise, and all its appendages, and all real and personal property of said company, which lien shall have preference, and be prior to all other liens and incumbrances whatever, except as hereinbefore excepted in behalf of said city, on all of said road, wherever the same is now, or may hereafter be located, and on said franchise, and on all other property, real and personal, of said company, and said lien shall be enforced and all the rights and interests of said city shall be protected, when necessary, by suitable and proper judgments, injunctions or decrees of the supreme judicial court in a bill or bills in equity which power is hereby specially conferred on said court; and it is hereby provided that the said lien provided for in this section shall not be deemed waived or ineffectual by the acceptance on the part of said city, of any mortgage or other securities contemplated by the provisions of this act or otherwise.

City may appoint two directors.

SECT. 12. The city may appoint under this act two directors of said company from among the stockholders, who shall be annually chosen by the city council, in joint ballot before the annual meeting of said company for the choice of officers, who shall have the same authority in transacting the business of said company, and who shall be entitled to like compensation from said company, as any other director. But the right to choose such director shall cease when the loan contemplated shall be extinguished.

Act, when to take effect.

SECT. 13. This act shall not take effect or be of any force until the city council of said city, by a concurrent vote of at least two-thirds of the members of each branch of the city council, present and voting, shall submit the same to a vote of the legal voters of the city, and the legal voters of the city in legal ward meetings, shall, by a vote of two-thirds of all the votes thrown in the city at such meetings, adopt the same. But if within one year from the approval of this act, said city shall accept said act by such con-

current vote of said city council; and of said legal voters as aforesaid, then said act shall be in force thereafter, and be binding upon said city according to its true tenor and effect, but not otherwise. Said ward meetings shall be called, notified, held, returns made, declared and recorded, agreeably to the provisions of the city charter of said city for calling and holding ward meetings for the choice of city officers, and returns thereof.

Ward meetings,
how called.

SECT. 14. This act shall take effect when approved.

Approved February 28, 1870.

Chapter 382.

An act to establish the Ridge School District from the towns of Dexter and Corinna.

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

SECT. 1. The following described territory in the towns of Dexter and Corinna, is hereby established into a school district, to be called the Ridge School District, viz: Lots numbered respectively one, three, four, five, six and seven, in the eleventh range; lots numbered respectively one, two, three, four, five, six, and the east half of seven, in the twelfth range, in the town of Corinna; and lots numbered respectively eleven, twelve, thirteen, fourteen, fifteen and sixteen, in the first range, in the town of Dexter, to continue for the term of twenty-five years from the thirty-first day of December, in the year of our Lord one thousand eight hundred and sixty-nine. All school-houses and school district property in said territory shall be the property of the Ridge School District.

Name.
Territory.

To continue for
twenty-five years.

Property of dis-
trict.

SECT. 2. The superintending school committee, municipal officers, assessors, treasurer, collector and constables of the town of Corinna, shall have all the powers and perform all the duties relating to said district that they have and perform relating to districts wholly in their own town, but in case the district or the proper authorities shall decide that the school-house shall be located, or that the school shall be kept in the town of Dexter, then said officers of Dexter shall have similar powers and perform similar duties; and such assessors shall assess all taxes voted by such district, according to a valuation made by them, uniform throughout the district.

Powers and duties
of committee and
other officers.

SECT. 3. The powers specified in section twenty-seven of chapter eleven of the revised statutes of eighteen hundred and fifty-seven, may be exercised in said district by the concurrent votes of said towns, or the joint acts of the municipal officers or superintending school committees thereof, and application shall be made

Powers specified
in sect. 27, chap.
11, R. S., how
and by whom
exercised.