

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1857.

PART SECOND.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.
1857.

THIRTY-SIXTH LEGISLATURE.

SENATE.]

[No. 9.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FIFTY-SEVEN.

AN ACT providing for the Foreclosure of certain Mortgages given to secure the Payment of Bonds and Coupons, issued by Railroad Corporations.

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

SECTION 1. Whenever a railroad corporation shall
2 have mortgaged its railroad and franchise to secure
3 the payment of any of its bonds or coupons, whether
4 such mortgage was made directly to the holders of
5 such obligations, or to trustees for their use, the

6 refusal or neglect to pay any such bond or coupon
7 within ten days after a presentment, (subsequent to
8 its pay day,) to the Treasurer or President for pay-
9 ment, shall be deemed a breach of the condition of
10 the mortgage.

SECT. 2. In order to obtain a foreclosure of the
2 mortgage, the holder of such dishonored bond or
3 coupon, may give public notice, three weeks succes-
4 sively, in the newspaper published by the State
5 printer, and in a newspaper printed in each of the
6 counties into which such road extends, if any shall be
7 printed there, stating the date of the mortgage, and
8 his claim under it, and that the condition thereof has
9 been broken, by reason of which he claims a fore-
10 closure; and he shall cause a copy of such printed
11 notice, and the name and date of each of said news-
12 papers containing it, to be recorded in each of such
13 counties, in its registry of deeds, within sixty days
14 from the time of the first publication. And unless,
15 within twelve months from the time of such first pub-
16 lication, the property shall be redeemed by the mort-
17 gagors or persons claiming under them, the right of

18 redeeming shall be forever foreclosed, unless some bill
19 in equity to redeem, founded on payment or on an
20 adequate and sufficient tender, had then previously
21 been commenced.

SECT. 3. Upon the completion of such recordings,
2 the procedure, for foreclosure shall enure to the bene-
3 fit of all the holders of any such bonds or coupons,
4 which, at the time of such completion, had been dis-
5 honored as above described ; and it is only upon the
6 payment or tender of payment of all such bonds and
7 coupons, that the foreclosure shall be prevented.

SECT. 4. If the foreclosure be effectuated, it shall
2 enure to the benefit of all the holders of bonds and
3 coupons provided for in its condition. And they,
4 their assigns and successors, are hereby constituted a
5 company, incorporated and chartered as of the day of
6 the foreclosure, for all the purposes of the original
7 company, with all the chartered and franchise rights
8 and immunities, which pertained to the original com-
9 pany at the time of the foreclosure.

SECT. 5. This new corporation, though a distinct
2 one, may, for the calling of its first meeting, retain the

3 same name with the old one; but shall at that meet-
4 ing adopt a new corporate name, such as it shall
5 choose to take, by which name it shall always after-
6 wards be known. Its first meeting may be called in
7 the same manner as was authorized for calling the
8 first meeting of the original company. And the new
9 corporation shall have full right to take and retain
10 the possession and use of the mortgaged property, not-
11 withstanding the pendency of any bill in equity to
12 redeem.

SECT. 6. Upon the hearing of any bill in equity to
2 redeem, commenced as mentioned in the second sec-
3 tion, the new corporation may become a party and
4 defend; and the court, if the bill be sustained by the
5 answer, and proofs or otherwise, may decree a re-
6 demption and a return of the property, on such terms
7 and conditions as equity may require, giving such
8 effect, as to rents and profits on the one hand, and as
9 to necessary expenditures on the other, as pertains in
10 equity to the redemption of mortgaged lands; and
11 may effectuate its decrees by all needful warrants and
12 processes.

SECT. 7. The original corporation shall continue in

2 existence for the sole purpose of collecting and pay-
3 ing its debts, and bringing its unsettled matters to a
4 close. The foreclosure of the mortgage and conse-
5 quent transfer of the mortgaged property, as above
6 provided for, shall not impair the rights of recovery
7 against the corporation or its stockholders, which **any**
8 person may have, either on contract or other cause of
9 action. But in suits founded upon any of the bonds
10 or coupons, secured by the foreclosed mortgage, the
11 actual value of the proportionate part of the property,
12 which passed by the foreclosure, shall be deducted.

SECT. 8. Proceedings under this act for the fore-
2 closure of a subsequent mortgage shall not impair the
3 rights of any party, claiming under a prior mortgage.
4 The new corporation resulting from the foreclosure of
5 a subsequent mortgage shall have all the rights of re-
6 deeming against a prior mortgage, and to the same
7 extent, by bill in equity or otherwise, which the hold-
8 ers of the bonds and coupons secured by such subse-
9 quent mortgage, or their mortgage-trustees for them,
10 could have had.

SECT. 9. This Act shall take effect, and be in force
2 from and after its approval by the Governor.



STATE OF MAINE.

IN SENATE, }
March 3, 1857. }

ORDERED, that 350 copies of the foregoing Bill (laid on the table by Mr. Magoun of Lincoln) be printed for the use of the Legislature.

JOSEPH B. HALL, *Secretary*.