

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

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1860.

THIRTY-NINTH LEGISLATURE.

SENATE.

No. 15.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
SIXTY.

AN ACT to authorize the city of Gardiner to lend its aid
in the construction of an extension of the Androscoggin
Railroad from the town of Leeds to the city of Gardiner.

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

SECTION 1. The city of Gardiner is hereby author-
2 ized to loan its credit to the Androscoggin Railroad
3 Company to aid in the construction of an extension of
4 their railroad from any point in its present road in the
5 town of Leeds to the said city of Gardiner, in a sum
6 not exceeding one hundred and fifty thousand dollars,
7 subject to the following provisions, terms and condi-
8 tions.

SECT. 2. If this act shall be accepted as is herein-
2 after provided, and the directors of said company shall
3 within nine months from the time of its acceptance by
4 said city, produce satisfactory evidence to the mayor
5 and aldermen of said city for the time being, that five
6 miles of said extension is completed and in readiness
7 for the cars, they shall certify that fact to the city
8 treasurer for the time being, and he shall thereupon
9 issue to the directors of said company fifty thousand
10 dollars of the scrip of said city, payable to the holder
11 thereof in thirty years from its date, with coupons for
12 interest attached, payable semi-annually; and if in
13 fifteen months from its acceptance as aforesaid, the
14 said directors shall prove satisfactorily to the mayor
15 and aldermen that five miles more of said extension is
16 completed and in readiness for the cars, they shall in
17 like manner as before, certify the fact to the city
18 treasurer, and he shall forthwith issue to said directors
19 fifty thousand dollars more of said scrip. If the whole
20 of the extension shall be completed and in running
21 order in two years from the acceptance of this act by
22 said city, and satisfactory proof of such completion is
23 produced by the directors of said company to the mayor
24 and aldermen of said city, they shall as before, certify
25 such fact to the city treasurer, and forthwith he shall
26 issue to said directors the remaining fifty thousand

27 dollars of said scrip ; *provided, nevertheless*, that if it
28 shall be mutually so agreed by the mayor and alder-
29 men of said city and the directors of said company, a
30 less amount may be issued.

SECT. 3. Concurrent with the issuing and delivery of
2 said city scrip as aforesaid, in each case, the president
3 and directors of said company in their official capacity
4 shall execute and deliver to the said treasurer the bond
5 of said company ; the penal sum in each bond to be
6 double the amount of the scrip authorized to be issued
7 at that time ; said bonds shall be made payable to said
8 city, and shall be conditioned that said company will
9 duly pay the interest on such scrip of said city as shall
10 be issued at the time of the date of the bonds respect-
11 ively, and also the principal thereof, according to the
12 tenor of the scrip, and in all respects will hold and
13 save harmless the said city on account of the issue of
14 the same. The said president and directors of said
15 company shall also, in each case of the issuing of the
16 scrip of said city as provided in section two of this
17 act and simultaneously therewith, make, execute and
18 deliver to the said city treasurer, the scrip of said com-
19 pany, payable to the holders thereof at the same time
20 and for the same amount as the scrip then issued by
21 said treasurer to said company, with like coupons for
22 the interest attached, which said scrip shall be held by

23 said city as collateral security for the fulfillment of the
24 conditions of the said bonds; and in default of any one
25 of said conditions, said city may from time to time sell
26 said scrip, or any portion thereof, by public auction or
27 auctions, in the cities of Gardiner, Portland, Boston or
28 New York, or either of them, after sixty days notice
29 in writing to the president or one of the directors, or
30 any three of the stockholders of said company, naming
31 therein the time and place of sale. The net proceeds
32 of all such sales shall be endorsed on one of the said
33 bonds.

SECT. 4. The president and directors of said com-
2 pany are hereby authorized, and it shall be their duty
3 in their official capacity upon the receipt of the first
4 issue of said city scrip, and upon the delivery of their
5 bond to the said city, to secure the payment of the
6 same, to execute and deliver to said city treasurer, a
7 mortgage of said extension of their railroad from Leeds
8 to Gardiner, and of all the property of said extension
9 which they then have or may subsequently acquire,
10 and also the franchise of said extension without prior
11 incumbrance; and the said mortgage shall be so made
12 as to embrace said extension not only, but also the
13 original road of said company from Leeds to Farming-
14 ton, and of all the property of said road, including the
15 franchise thereof, subject, however, to prior uncanceled

16 mortgages upon the same. Said mortgage shall be so
17 made as to cover the city scrip then issued, not only,
18 but all the scrip which may thereafter be issued under
19 the provisions of this act, and being so made, it shall
20 be deemed and held to be good and valid, and a secu-
21 rity to said city for all the scrip it may issue to said
22 directors. It shall be signed by the president of said
23 company in his official capacity, and shall be executed
24 according to the laws of this state, and shall be in due
25 and legal form, and shall contain apt and sufficient
26 terms to secure to said city the fulfillment of all the
27 conditions in said bonds contained; and said mortgage
28 so executed and delivered and recorded in the registry
29 of deeds for the county of Kennebec, shall to all in-
30 tents and purposes be, and the same is hereby declared
31 to be a full and complete transfer of said extension
32 from Leeds to Gardiner, and of all the property, real
33 or personal, then or subsequently to be acquired, and
34 of said franchise, and also a full and complete transfer
35 of the said railroad from Leeds to Farmington, and of
36 all the property of said road, including the franchise
37 thereof, subject to prior uncanceled mortgages on the
38 same; said transfers being subject only to the condi-
39 tions contained in said mortgage, any law to the con-
40 trary notwithstanding. All the proceedings in the

41 organization of said company, and choice of directors,
42 shall be deemed valid and regular.

SECT. 5. For the purpose of foreclosing said mort-
2 gage for condition broken, it shall be sufficient for the
3 said mayor and aldermen to give notice according to
4 the mode prescribed in the revised statutes for the fore-
5 closure of mortgages, by publication of notice therefor,
6 which notice may be published in a newspaper printed
7 in Gardiner, and the record thereof may be made with-
8 in thirty days after the date of the last publication, in
9 the registry of deeds for the county of Kennebec, which
10 publication and record shall be sufficient for the pur-
11 pose of such foreclosure. Upon the expiration of three
12 years from and after such publication, if the conditions
13 of said mortgage shall not within that time have been
14 fulfilled, the foreclosure shall be complete and shall
15 make the title of said extension and of said road and
16 to all the property and franchises aforesaid, absolute in
17 said city.

SECT. 6. If the directors of said company shall, at
2 any time, neglect or omit to pay the interest which
3 may become due upon any portion of the scrip issued
4 and delivered under the provisions of this act, or to pay
5 the principal as it shall become due, or to comply with
6 any of the conditions of said bonds, the city of Gardiner

7 may take actual possession in the manner hereinafter
8 provided, of the whole of said railroad, and of all the
9 property real and personal of the company, and of the
10 franchise thereof, and may hold the same and apply
11 the income thereof to make up and supply such defi-
12 ciencies and all further deficiencies that may occur
13 while the same are so held, until such deficiencies shall
14 be fully made up and discharged. A written notice,
15 signed by the mayor and aldermen, and served upon
16 the president or treasurer or any director of the com-
17 pany, or if there are none such, upon any stockholder
18 of the company, stating that the city thereby takes
19 actual possession of the whole line of the railroad and
20 of the property and franchise of the company shall be
21 a sufficient actual possession thereof, and shall be a
22 legal transfer of all the same, for the purposes afore-
23 said, to the city, and shall enable the city to hold the
24 same against any other claim thereon, until such pur-
25 poses have been fully accomplished. Such possession
26 shall not be considered an entry for foreclosure under
27 any mortgage hereinbefore provided, nor shall the
28 rights of the city or of the company under any mort-
29 gage in any manner be affected thereby.

SECT. 7. All moneys received by or for the railroad
2 company after notice as aforesaid, from any source

3 whatever, and by whomsoever the same may be re-
4 ceived, shall belong to and be held for the use and bene-
5 fit of the city, in the manner and for the purposes
6 herein provided, and shall after notice given to per-
7 sons receiving the same respectively, be by them paid,
8 to the city treasurer, which payment shall have
9 effectual discharge from all claims of the company
10 therefor; but if any person without such notice, shall
11 make payments of moneys so received, to the treas-
12 urer of the company, such payment shall be a dis-
13 charge of all claims of the city therefor. All moneys
14 received by the treasurer of the company after such
15 notice, or in his hands at the time such notice may be
16 given, shall be by him paid to the city treasurer, after
17 deducting the amounts expended, or actually due for
18 the running expenses of the road, for the salaries of
19 the officers of the company, and for repairs necessary
20 for conducting the ordinary operations of the road.
21 Such payments to the city treasurer shall be made at
22 the end of every calendar month and shall be by him
23 applied to the payment of all the interest and principal
24 due as aforesaid. And any person who shall pay or
25 apply any moneys received as aforesaid, in any man-
26 ner contrary to the foregoing provisions, shall be liable
27 therefor, and the same may be recovered in an action

28 for money had and received in the name of the city
29 treasurer, whose duty it shall be to sue for the same,
30 to be by him held and applied as herein required.

SECT. 8. For the purpose of effecting the objects
2 prescribed in the two preceding sections, the mayor
3 and aldermen may cause a suit in equity to be instituted
4 in the name of the city of Gardiner, in the supreme
5 judicial court, in the county of Kennebec, against said
6 company, its directors, or any other person, as may be
7 necessary for the purpose of discovery, injunction, ac-
8 count, or other relief, under the provisions of this act ;
9 and any judge of the court, may issue a writ of injunc-
10 tion, or any other suitable process, on any such bill, in
11 vacation or in term time, with or without notice ; and
12 the court shall have jurisdiction of the subject matter
13 of such bill, and shall have such proceedings, and make
14 such orders and decrees, as may be within the powers,
15 and according to the course of proceedings of courts of
16 equity, as the necessities of the case may require.

SECT. 9. If the railroad company shall, after no-
2 tice of possession, as aforesaid, neglect to choose
3 directors thereof, or any other necessary officers, or none
4 such shall be found, the mayor and aldermen of the
5 city, shall appoint a board of directors, consisting of
6 not less than seven persons, or any other necessary

7 officers, and the persons so appointed, shall have all
8 the power and authority of officers chosen or appointed
9 under the provisions of the act establishing said com-
10 pany, and upon their acceptance, such officers shall be
11 subject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint one of the directors
2 of said railroad company, from among the stock-
3 holders, who shall be chosen annually, by the city
4 council in joint ballot, before the annual meeting of
5 said company for the choice of their officers, who shall
6 have the same authority in transacting the business of
7 said company, and who shall be entitled to like com-
8 pensation from the company as any other director.
9 But the right to choose such director, shall cease, when
10 the loan contemplated is extinguished.

SECT. 11. As an additional or accumulative protec-
2 tion for said city, all liabilities which by said city may
3 be assumed, or incurred under or by virtue of any of
4 the provisions of this act, shall at the time, and by
5 force thereof, and for the security and payment of the
6 same, create in favor of said city, a lien on the whole
7 of said railroad, its franchise, and all of its appendages,
8 and all real and personal property of said railroad cor-
9 poration, which lien shall have the preference, and be
10 prior to all other liens and incumbrances whatever on

11 the said extension from Leeds to Gardiner, and on the
12 road from Leeds to Farmington, and on all the other
13 property of said railroad corporation, subject only to
14 prior uncanceled mortgages ; and said lien shall be
15 enforced, and the rights and interests of said city pro-
16 tected, when necessary, by suitable and proper judg-
17 ments, injunctions, or decrees, of said supreme judicial
18 court, on a bill or bills in equity, which power is hereby
19 specially conferred on said court. [A.]

SECT. 12. This act shall not take effect, unless it
2 shall be accepted by said company, within six months
3 from and after its approval ; and also by said city, by
4 a vote of the legal voters thereof, voting in ward
5 meetings duly and legally called, according to law,
6 within six months from and after its approval ; and at
7 least two-thirds of the legal voters of said city, present
8 and voting at said meetings as aforesaid, shall be ne-
9 cessary for the acceptance of this act, on the part of the
10 city ; nor shall this act take effect, unless said road
11 from Leeds, shall enter said city of Gardiner, and shall
12 terminate therein, at some point between the north line
13 of said city and the depot of the Kennebec and Port-
14 land Railroad in said city. The returns of said ward
15 meetings shall be made to the mayor and aldermen of
16 said city and shall be by them examined and the state

17 of the vote ascertained and declared, and the city clerk
18 shall make a record thereof, and if the act shall be
19 accepted as aforesaid, then after such acceptance and
20 record thereof, all the parts of the act shall take effect
21 and be in full force thereafter.

SECT. 13. The provisions of this act shall be in force
2 from and after its approval by the governor.

AMENDMENT.

A.

Amend, by adding to section eleven, as follows:

“And it is hereby provided that the said lien provided
2 for in this section, shall not be deemed waived or in-
3 effectual, by the acceptance on the part of said city,
4 of any mortgage or other securities contemplated by
5 the provisions of this act or otherwise.”

STATE OF MAINE.

IN SENATE, Feb. 24, 1860.

This bill, reported by the Committee on Judiciary, was laid on the table, and 350 copies ordered to be printed for the use of the Legislature.

JAMES M. LINCOLN, *Secretary.*