DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.

AUGUSTA:
STEVEML & SAYWARD, PRINTERS TO THE STATE.
1864.
STATE OF MAINE.

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

AN ACT relating to the redemption of railroad mortgages by subsequent mortgagees, and for the better protection of bondholders.

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

SECTION 1. In all cases where any entry has been made or other steps have been, or shall hereafter be taken with a view to foreclose, or commence the foreclosure of any mortgage upon any railroad within this state, or upon any part thereof, or upon its franchise or other property, any subsequent mortgagees of the same road, franchise or other property, holding in trust for the benefit of any holders of the bonds or other claims secured by such subsequent mortgage, in which
no provision for a sale is expressed, may pay the amount due upon the mortgage so being in process of foreclosure, at any time before such foreclosure shall become absolute; and upon payment or tender thereof shall hold the same in trust for the persons holding bonds or other claims secured by such subsequent mortgage, who severally shall have contributed to the payment and redemption thereof; and each bondholder or other person so contributing, shall be equitably interested therein, in proportion to the amount he shall have paid; and the trustees of the subsequent mortgage shall hold the same as assignees notwithstanding its payment in trust for the benefit of the persons contributing as aforesaid, in the same manner and with the same effect that it would have been held by the preceding mortgagees if it had not been paid or redeemed, subject, however, to the provisions for further contribution hereinafter contained.

Sect. 2. For the purpose of paying any such preceding mortgage, the trustees under any subsequent mortgage may with or without application as hereinafter provided, call a meeting of the bondholders or other persons secured thereby, to be held at such time and place as they or a majority of them shall appoint, of which they shall give at least fourteen days notice.
RAILROAD MORTGAGES.

8 in the state paper and such other newspapers as they may deem proper, therein stating the object of said meeting; and it shall be their duty to call such meeting upon the written application of any one or more of the persons interested in the subsequent mortgage as aforesaid (upon the payment of all reasonable expenses to be incurred thereby) provided the said application shall be made at least six months before the preceding mortgage will be absolutely foreclosed. The persons interested as aforesaid, present at such meeting, may organize the same by the choice of a moderator and clerk, and may proceed to determine what measures, if any, shall be taken for the payment or redemption of the preceding mortgage; and if persons holding a majority of the interest there represented, shall vote that it is expedient to pay or redeem the preceding mortgage, it shall be the privilege of each and every bondholder, or other person holding claims secured by such subsequent mortgage, to contribute his proportion to the payment thereof, and if any such bondholder or other person shall, after due notice to be given as hereinafter stated, fail to pay his proportion according to the provisions of this act, his rights shall be forever foreclosed and barred.

SECT. 3. Whenever, at any meeting held in pursu-
ance of the provisions of this act, it shall have been voted that it is expedient to pay or redeem any prior mortgage as aforesaid, the trustees under the subsequent mortgage, shall, immediately after being notified of the passage of such vote, give public notice thereof, which notice shall be published at least three weeks successively in the state paper, and such other newspapers as the trustees may think proper, if the time before the day of foreclosure will reasonably permit, and shall therein call upon all bondholders and other persons holding claims secured by such subsequent mortgage to pay their several proportions of the sum to be paid for the redemption of the prior mortgage; and shall therein state the time and place, and person to whom their several proportions shall be paid, together with the rate per cent. which each hundred dollars of the bonds or claims secured will be obliged to pay as near as conveniently may be. And if any person so interested shall fail to pay his proportion by the time fixed in said notice, then any such deficiency arising from such failure may be paid by any other person or persons holding bonds or claims secured as aforesaid; and the persons so paying any deficiency as aforesaid, shall succeed to all the rights which the person failing to pay as aforesaid would have had, if
27 seasonable payment had been made by him, subject
28 however, to the further right of redemption as herein-
29 after provided.

Sect. 4. If no such meeting shall be seasonably
called by the trustees of such subsequent mortgage as
is provided for in this act, or if at such meeting duly
called the bondholders or other persons holding claims
secured by such mortgage, shall fail to vote that it is
expedient to pay or redeem the prior mortgage, it
shall be lawful and competent for any one or more of
the bondholders or other persons so secured by such
subsequent mortgage to pay over to the trustees hold-
ing such mortgage, so much money as shall be neces-
sary to redeem the said prior mortgage; and it shall
be the duty of such trustees upon seasonable payment
to them as aforesaid, to pay or redeem such prior
mortgage therewith; and upon the redemption thereof,
the persons so paying the money, shall stand in the
same position and be vested with all the equitable
rights which the other bondholders or other persons
secured by such subsequent mortgage would have been
entitled to if they had paid in due season their propor-
tions thereof; and the trustees of the subsequent
mortgage shall hold the real and personal property so
redeemed in trust for the benefit of the persons paying
or furnishing the redemption money as aforesaid, subject, however, to the same provision for further right of redemption which is provided in the following section for persons failing to pay their proportions after notice as is therein required.

Sect. 5. Whenever any prior mortgage shall have been paid or redeemed in pursuance of this act, and it shall appear to the trustees making such payment that any of the bondholders or other persons holding claims secured by the subsequent mortgage, which they represent have failed to pay their proportion of the sum paid to redeem the prior mortgage, it shall be the duty of such trustees to give public notice that all persons who have failed to pay their proportion as aforesaid, may redeem their several proportions by payment to said trustees or their agent of the sum so paid or advanced in their behalf, with interest at the rate of twelve per cent. per annum thereon, at any time within one year from and after the first publication of said notice; and any payment so made to the trustees or their agent within the time aforesaid, shall have the effect to restore the persons so paying to the same position and interest in the property embraced in the prior mortgage, which they would severally have been entitled to, if they had paid their proportion thereof,
RAILROAD MORTGAGES.

21 at any time before there would have been an absolute
22 foreclosure of the prior mortgage, if the same had not
23 been paid or redeemed; and if no such payment shall
24 have been made within the year aforesaid, the rights
25 of all persons so failing to pay their proportion, with
26 interest as aforesaid, in and to the property conveyed
27 by the prior mortgage, shall be forever barred. All
28 moneys paid to said trustees in pursuance of this sec-
29 tion, shall be distributed *pro rata* among the several
30 persons who paid or advanced the same. The notice
31 aforesaid shall be published for at least ten weeks in
32 succession in the state paper; and the first publication
33 thereof shall not be until after the prior mortgage
34 would have become foreclosed, if it had not been paid
35 or redeemed.

**Sect. 6.** All persons who have contributed or shall
2 hereafter contribute to the payment of any prior mort-
3 gage in pursuance of the provisions of this act, shall
4 have the right to organize and form a new corporation
5 with such name as they may designate, to be certified
6 by the president and secretary of such new corporation
7 to the secretary of state; and shall have and enjoy all
8 the rights and privileges which are provided by law,
9 or which would attach to the bondholders or other per-
10 sons holding claims secured by such prior mortgage, if
the same had been foreclosed without any payment or redemption thereof; provided, however, that the said rights and privileges, and also the chartered rights and immunities conferred upon the holders of bonds secured by a mortgage of a railroad and its franchise, upon a foreclosure thereof, under the provisions of chapter fifty-one of the revised statutes, shall be liable at any time to be amended, altered or repealed, at the pleasure of the legislature.

SECT. 7. When the foreclosure of a railroad mortgage shall have been completed and a new corporation formed, the president and treasurer of the new corporation shall issue certificates of stock therein to each holder of bonds or coupons, or other claims secured by the mortgage foreclosed, to the extent of one share for every hundred dollars so secured, so held at the time of foreclosure; and the treasurer shall issue certificates for the fractions, payable to the bearer in stock of the new corporation, when presented in sums sufficient to make one or more shares; and when such certificates shall be presented in sufficient sums to entitle the holder to one or more shares, the president and treasurer shall issue certificates of stock for the same accordingly.

SECT. 8. The holders of the bonds or other claims
under any such mortgage as is described in the first
section of this act, put on foreclosure, in any meeting
called for that purpose, may by vote instruct the trus-
tees to extend the time for the redemption of such
mortgage; and thereupon the trustees of such mort-
gage shall be authorized and required by writing under
their hands, given to the party entitled to redeem, to
extend the time of the redemption, and the same shall
be extended accordingly.

Sect. 9. This act shall take effect and be in force
from and after its approval by the governor.
STATE OF MAINE.

House of Representatives, } March 21, 1864.

On motion of Mr. WILLIAMS of Augusta, laid on the table and
350 copies ordered to be printed for the use of the Legislature.

HORACE STILSON, Clerk.