

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1867.

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1867.

FORTY-SIXTH LEGISLATURE.

SENATE.

No. 5.

STATE OF MAINE.

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

AN ACT to authorize certain towns to grant aid in the construction and completion of the Dexter and Newport Railroad.

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

SECTION 1. The towns of Dexter, Corinna and Parkman, and each of them, or so many of them as shall accept this act, are severally authorized to loan their respective credits to the Dexter and Newport Railroad Company in aid of the construction and completion of their railroad, in amounts not exceeding the sums as follows, viz : the town of Dexter, one hundred and twenty-five thousand dollars ; the town of Corinna, fifty thousand dollars ; the town of Parkman, fifteen

10 thousand dollars, subject to the following terms and
11 conditions.

SECT. 2. If this act shall be accepted as hereinafter
2 provided, and said company shall within two years
3 from its approval, produce evidence satisfactory to the
4 selectmen for the time being of the towns accepting
5 the same, that the sum of seventy-five thousand dol-
6 lars has been subscribed and paid in cash to the stock
7 of said company, to be expended in the construction
8 of their road and the purchase of the right of way,
9 then such fact shall be certified by the selectmen to
10 the town treasurer, and he shall forthwith issue to the
11 directors of said company for the purpose of complet-
12 ing said road, the scrip of said town, payable to the
13 holders thereof in sums of one thousand dollars or less,
14 as the parties may deem expedient, at the expiration
15 of thirty years from the date thereof, not to exceed
16 the sums aforesaid for each town respectively, with
17 coupons for interest attached, payable semi-annually,
18 all, both principal and interest payable in Dexter,
19 Portland and Boston, the same to be signed by the
20 town treasurers and countersigned by the first select-
21 man of the town issuing the scrip.

SECT. 3. Concurrent with the delivery of said scrip
2 as aforesaid, the president and directors of said com-
3 pany, in their official capacity, shall execute and

4 deliver to said town treasurers the bond of said com-
5 pany in the penal sum of three hundred thousand dol-
6 lars, payable to said towns conditioned to save them
7 harmless on account of the issue of the same. And
8 shall also execute and deliver to said treasurers the
9 scrip of said company payable to the holders thereof
10 at the same time and for the same amount as the scrip
11 then issued by said treasurers to said company, with
12 the like coupons attached, which scrip shall be held
13 by said towns as collateral security for the fulfilment
14 of the conditions of said bond ; and in default of any
15 one of said conditions, said towns may from time to
16 time sell said scrip or any portion thereof, at public
17 auction, in the cities of Bangor, Portland, Boston or
18 New York, after sixty days notice in writing to the
19 president or one of the directors, or three of the stock-
20 holders of said company, naming therein the time and
21 place of sale, and the net proceeds thereof shall be
22 endorsed on said bond.

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 said scrip
4 from said towns, and the delivery of their bond to said
5 towns, to secure the payment of the same ; to execute
6 and deliver to said towns a mortgage of said railroad,
7 and of all the property of said company, real and per-

8 sonal, which they then have, or may subsequently
9 acquire, together with their franchise without prior
10 incumbrance, which mortgage shall be signed by the
11 said president in his official capacity, and shall be
12 executed according to the law of this state, and shall
13 be in due legal form, and shall contain apt and suffi-
14 cient terms to secure to said towns the fulfilment of
15 all the conditions in said bond contained; and said
16 mortgage so executed and delivered and recorded in
17 the registry of deeds for the county of Penobscot,
18 shall to all intents and purposes be, and the same is
19 hereby declared to be a full and complete transfer of
20 said railroad, of all the property of said company, real
21 and personal, then or subsequently to be acquired,
22 and of said franchise, subject only to the conditions
23 therein contained, any law to the contrary notwith-
24 standing.

SECT. 5. For the purpose of foreclosing said mort-
2 gage for conditions broken, it shall be sufficient for the
3 selectmen of said towns to give notice according to the
4 mode prescribed in the revised statutes for the fore-
5 closure of mortgages, by publication of notice thereof,
6 which may be published in a newspaper printed in
7 Bangor, and a record thereof may be made within
8 thirty days after the date of the last publication in
9 the registry of deeds for the county of Penobscot,

10 which publication and record shall be sufficient for
11 the purpose of such foreclosure. Upon the expiration
12 of three years from and after such publication, if the
13 condition shall not within that time have been ful-
14 filled, the foreclosure shall be complete, and shall make
15 the title to said road, and to all the property and fran-
16 chises aforesaid, absolute in said towns.

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
5 pay the principal as it shall become due, or to comply
6 with any of the conditions of said bond, the said towns
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 ciency, and all further deficiencies that may occur
13 while the same are so held, until such deficiencies
14 shall be fully made up and discharged. A written
15 notice signed by the selectmen, and served upon the
16 president or treasurer, or any director of the company,
17 or if there be none such, upon any stockholder of the
18 company, stating that the towns thereby take actual
19 possession of the whole line of the railroad, and of the

20 property and franchise of the company, shall be a suf-
21 ficient actual possession thereof, and shall be a legal
22 transfer of all the same, for the purposes aforesaid to
23 the said towns, and shall enable the towns to hold the
24 same against any other claims thereon until such pur-
25 poses have been fully accomplished.

SECT. 7. All moneys received by or for the said
2 railroad company, after notice as aforesaid, from any
3 source whatever, and by whomsoever the same may be
4 received, shall belong to, and be held for the use and
5 benefit of the towns in 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 town treasurers, or some one of them, which
9 payment shall be an effectual discharge from all claims
10 of the company therefor; but if any person, without
11 such notice, shall make payment of moneys so received
12 to the treasurer of the company, such payment shall
13 be a discharge of all claims of the towns therefor; all
14 moneys received by the treasurer of the company, after
15 such notice or in his hands at the time such notice
16 may be given, shall be by him paid to the town treas-
17 urers or some one of them, after deducting the amount
18 expended, or actually due for the running expenses of
19 the road, for services of the officers of the company,
20 and for repairs necessary for conducting the ordinary

21 operations of the road. Such payments to the town
22 treasurer shall be made at the end of every calendar
23 month, and shall be by him applied to the payment of
24 all the interest and principal due as aforesaid. And
25 any person who shall pay or apply any moneys re-
26 ceived, as aforesaid, in any manner contrary to the
27 foregoing provisions, shall be liable therefor, and the
28 same may be recovered in an action for money had
29 and received, in the name of the town treasurers,
30 whose duty it shall be to sue for the same, to be by
31 them held and applied as herein required.

SECT. 8. For the purpose of effecting the objects
2 prescribed in the two preceding sections, the select-
3 men may cause a suit in equity to be instituted in the
4 name of the towns, in the supreme judicial court, in
5 the county of Penobscot, against said company, direc-
6 tors, or any other person, as may be necessary for the
7 purpose of discovery, injunction, account, or other re-
8 lief under the provisions of this act; and any judge of
9 the court may issue a writ of injunction or any other
10 suitable process, on any such bill, in vacation or in
11 term time, with or without notice, and the court shall
12 have jurisdiction of the subject matter of such bill, and
13 shall have such proceedings, and make such orders
14 and decrees, as may be within the power, and accord-

15 ing to the course of proceedings of courts of equity, as
16 the necessities of the case may require.

SECT. 9. If the said railroad company shall after
2 notice of possession as aforesaid, neglect to choose
3 directors thereof, or any other necessary officers, or
4 none such shall be found, the selectmen shall appoint
5 a board of directors consisting of not less than seven
6 persons, or any other necessary officers, and the per-
7 sons so appointed shall have all the power and author-
8 ity of officers chosen or appointed under the provisions
9 of the act establishing said company, and upon their
10 acceptance such officers shall be subject to all the
11 duties and liabilities thereof.

SECT. 10. As an additional or accumulative protec-
2 tion for said towns, all liabilities which by said towns
3 may be assumed or incurred under, or by virtue of
4 any of the provisions of this act, shall at the time, and
5 by force thereof, and for the security and payment of
6 the same, create in favor of said towns a lien on said
7 railroad, its franchise, and all of its appendages, and
8 all real and personal property of said railroad corpora-
9 tion; which lien shall have the preference and be
10 prior to all other liens and incumbrances whatever,
11 and shall be enforced, and the rights and interests of
12 said towns protected, when necessary, by suitable and
13 proper judgments, injunctions or decrees of said

14 supreme judicial court, on a bill or bills in equity,
15 which power is hereby specially conferred on said
16 court.

SECT. 11. This act shall not take effect unless it
2 shall be accepted by said company, and by a vote of
3 the inhabitants of said towns voting in meetings duly
4 called according to law, within two years after the
5 approval of this act by the governor; and at least
6 two-thirds of the votes cast at such meetings shall be
7 necessary for the acceptance of this act. The respect-
8 ive town clerks shall make a record thereof, and if the
9 act shall be accepted as aforesaid, then after such ac-
10 ceptance and record thereof, all the parts of the act
11 shall take effect and be in full force thereafter on the
12 towns so accepting the same.



STATE OF MAINE.

IN SENATE, January 17, 1867.

Reported by Mr. WOODMAN, from the Committee on Railroads,
Ways and Bridges.

THOMAS P. CLEAVES, *Secretary.*