

MAINE STATE LEGISLATURE

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FORTY-NINTH LEGISLATURE.

HOUSE.

No. 40.

STATE OF MAINE.

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

AN ACT to authorize the city of Rockland to aid in the construction of the Lime Rock Railroad.

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

SECTION 1. The city of Rockland is hereby authorized to loan its credit to the Lime Rock Railroad Company, in aid of the construction of their railroad, to an amount not exceeding fifty thousand dollars, upon the following terms and conditions :

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall within three years, to the approval of the mayor and aldermen of said city, expend the sum of twenty-five thousand dollars in the construction of said railroad, then the said company shall be entitled to receive such sum, not exceeding fifty thousand dollars, as said city may determine ;

8 payments to be made by the scrip of said city, payable to the holder thereof, in such sums as the directors of said road may determine, with coupons for interest attached, payable semi-annually, the principal payable in twenty years from the date thereof, and all payable in Boston, and the same to be signed by the city treasurer and countersigned by the mayor of said city.

SECT. 3. Concurrent with the issue and delivery of said city scrip as aforesaid, the president and directors of said company, in their official capacity, shall execute and deliver to the said treasurer, the bond of said company, the penal sum in said bond to be double the amount of the scrip authorized to be issued; 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 at the time of the date of the bond, and also the principal thereof, according to the tenor of the scrip, and in all respects will hold and save harmless the said city on account of the issue of the same.

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 said city scrip and upon the delivery of their bond to said city to secure the payment of the same, to execute and

6 deliver to said city treasurer, a mortgage, without
7 prior incumbrance, of their railroad, and all of the
8 property, real and personal, including the franchise
9 thereof; said mortgage shall be executed according to
10 the laws of this state, and shall be in due and legal
11 form, and shall contain apt and sufficient terms to
12 secure the said city the fulfilment of the conditions in
13 said bond contained.

SECT. 5. For the purpose of foreclosing said mort-
2 gage for conditions 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
5 foreclosure of mortgages, by publication of notice
6 thereof, which may be published in a newspaper
7 printed in Rockland, and a record thereof may be
8 made within thirty days after the date of the last pub-
9 lication, in the registry of deeds for the county of
10 Knox, which publication and record shall be sufficient
11 for the purpose of such foreclosure. Upon the expira-
12 tion of three years from and after such publication, if
13 the condition shall not within that time have been ful-
14 filled, the foreclosure shall be complete, and shall
15 make the title to said road, and to all the property
16 and franchise aforesaid, absolute in 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
5 pay the principal as it shall become due, or to comply
6 with any of the conditions of said bond, the city of
7 Rockland may take actual possession in the manner
8 hereinafter provided of the whole of said railroad, and
9 of all the property, real and personal, of the company,
10 and of the franchise thereof, and may hold the same
11 and apply the income thereof to make up and supply
12 such deficiency, and all further deficiencies that may
13 occur while the same are so held, until such deficien-
14 cies shall be fully made up and discharged. A written
15 notice, signed by the mayor and aldermen, and served
16 upon the president or treasurer, or any director of the
17 company, or if there are none such, upon any stock-
18 holder of the company, stating that the city thereby
19 takes actual possession of the whole line of the rail-
20 road, and of the property and franchise of the com-
21 pany, shall be a sufficient actual possession thereof,
22 and shall be a legal transfer of all the same for the
23 purposes aforesaid to the city, and shall enable the
24 city to hold the same against any other claims thereon
25 until such purposes 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 city, 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 city treasurer, which payment shall be an
9 effectual discharge from all claims of the company
10 therefor ; but if any person, without such notice, shall
11 make payment of moneys so received to the treasurer
12 of the company, such payment shall be a discharge of
13 all claims of the city therefor ; all moneys received by
14 the treasurer of the company after such notice, or
15 in his hands at the time such notice may be given,
16 shall be by him paid to the city treasurer, after
17 deducting the amount expended or actually due for
18 the running expenses of the road, for the services 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 prin-
24 cipal due as aforesaid. And any person who shall pay
25 or apply any moneys received as aforesaid, in any
26 manner contrary to the foregoing provisions, shall be
27 liable therefor, and the same may be recovered in an
28 action for money had and received, in the name of the
29 city treasurer, whose duty it shall be to sue for the
30 same, 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 insti-
4 tuted in the name of the city of Rockland, in the
5 supreme judicial court, in the county of Knox, against
6 said company, directors, or any other person, as may
7 be necessary for the purpose of discovery, injunction,
8 account, or other relief under the provisions of this
9 act; and any judge of the court may issue a writ of
10 injunction, or any other suitable process, on any such
11 bill, in vacation or in term time, with or without
12 notice, and the court shall have jurisdiction of the
13 subject matter of such bill, and shall have such pro-
14 ceedings, and make such orders and decrees, as may
15 be within the power, and according to the course of
16 proceedings of courts of equity, as the necessities of
17 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 mayor and aldermen of
5 the city shall appoint a board of directors, consisting
6 of not less than seven persons, or any other necessary
7 officers, and the persons so appointed shall have all the
8 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
11 be subject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint two of the di-
2 rectors of the said railroad company from among the
3 stockholders, 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 cumulative protection
2 for said city, all liabilities which by said city may be
3 assumed or incurred under or by virtue of any of the
4 provisions of this act, shall at the time, and by force
5 thereof, and for the security and payment of the same,
6 create in favor of said city a lien on the whole of said
7 railroad, its franchise, and all its appendages, and all
8 real and personal property of said railroad corporation,
9 which lien shall have preference and be prior to all
10 other liens and incumbrances whatever on the said
11 road, and all the other property of said railroad corpo-
12 ration, and said lien shall be enforced and all the
13 rights and interests of said city shall be protected when
14 necessary by suitable and proper judgments, injunction

15 or decrees of said supreme judicial court, on a bill or
16 bills in equity, which power is hereby specially con-
17 ferred on said court. And it is hereby provided, that
18 the said lien provided for in this section shall not be
19 deemed waived or ineffectual by the acceptance on the
20 part of said city, of any mortgage or other securities
21 contemplated by the provisions of this act, or other-
22 wise.

SECT. 12. This act shall not take effect or be of any
2 force until the city council of said city by a concur-
3 rent vote of at least two-thirds of the members of each
4 branch present and voting shall submit the same to a
5 vote of the people of the city, and the legal voters of
6 the city in legal ward meetings, shall by a vote of
7 two-thirds of all the votes thrown in the city at such
8 meetings adopt the same. But if within one year
9 from the approval of this act the city shall accept this
10 act by such concurrent vote of the city council and of
11 the citizens as aforesaid, then the act shall be in force
12 thereafter and be binding upon the city according to
13 its true tenor and effect but not otherwise.

SECT. 13. This act shall take effect when approved
2 by the governor.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 14, 1870. }

Reported from the Committee on the Judiciary, by Mr. WHIDDEN, and ordered
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