

MAINE STATE LEGISLATURE

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FORTY-NINTH LEGISLATURE.

HOUSE.

No. 104.

STATE OF MAINE.

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

AN ACT to authorize certain towns and the city of Ellsworth to aid in the construction of the Penobscot and Union River Railroad.

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

SECTION 1. The towns of Brewer, Orrington, Bucks-
2 port, Orland, Penobscot, Surry and Bluehill, and the
3 city of Ellsworth, or so many of them as shall accept
4 this act, are severally authorized to loan their respec-
5 tive credits to the Penobscot and Union River Rail-
6 road Company in aid of the construction of their rail-
7 road in amounts not exceeding fifteen per cent. of the
8 state valuation for the year eighteen hundred and
9 seventy of said towns and city respectively, subject to
10 the following terms and conditions.

SECT. 2. If this act shall be accepted as hereinafter
2 provided, and said company shall within three years
3 from its approval produce evidence satisfactory to the
4 selectmen of the towns and the mayor of the city for
5 the time being that the sum of two hundred thousand
6 dollars has been subscribed and paid to the stock of
7 said company, and expended or to be expended in the
8 construction of their road and the purchase of the right
9 of way, then such fact shall be certified by the select-
10 men or mayor to the town or city treasurer, and he
11 shall forthwith issue to the directors of said company,
12 for the purpose of constructing and completing said
13 road, the scrip of said town or city, payable to the
14 holders thereof, in sums of one thousand dollars or
15 less, as the parties may agree, at such time as said
16 town or city shall determine, not exceeding thirty
17 years from the date thereof, not to exceed the sum of
18 fifteen per cent. of the valuation of such town or city
19 as aforesaid, with coupons for interest attached, pay-
20 able semi-annually, all, both principal and interest,
21 payable in Bangor, Bucksport, Ellsworth, Portland
22 and Boston, the same to be signed by the town or city
23 treasurer and countersigned by the first selectman of
24 the town or the mayor of the city issuing said scrip.

SECT. 3. Concurrent with the delivery of said scrip
2 as aforesaid, the president and directors of said com-

pany, in their official capacity, shall execute and deliver to said town and city treasurers the bond of said company in the penal sum of nine hundred thousand dollars, payable to said towns and city conditioned to save them harmless on account of the issue of the same. And shall also execute and deliver to said treasurers the scrip of said company payable to the holders thereof at the same time and for the same amount as the scrip then issued by said treasurers to said company, with the like coupons attached, which scrip shall be held by said towns and city as collateral security for the fulfilment of the conditions of said bond; and in default of any one of said conditions, said towns and city may from time to time sell said scrip or any portion thereof, at public auction, in the cities of Ellsworth, Bangor, Portland, Boston and New York, or the town of Bucksport, after sixty days' notice in writing to the president or one of the directors, or three of the stockholders of said company, naming therein the time and place of sale, and the net proceeds thereof shall be endorsed on said bond.

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 scrip from said towns and city, and the delivery of their bond to said towns and city to secure the payment of

6 the same, to execute and deliver to said towns and
7 city a mortgage of said railroad, and of all the prop-
8 erty of said company, real and personal, which they
9 then have, or may subsequently acquire, together with
10 their franchise without prior incumbrance, which mort-
11 gage shall be signed by the said president in his official
12 capacity, and shall be executed according to the laws
13 of this state, and shall be in due legal form, and shall
14 contain apt and sufficient terms to secure to said towns
15 and city the fulfilment of all the conditions in said bond
16 contained ; and said mortgage so executed and deliv-
17 ered and recorded in the registry of deeds for the
18 counties of Penobscot and Hancock, shall to all in-
19 tents and purposes be, and the same is hereby declared
20 to be a full and complete transfer of said railroad, of
21 all the property of said company, real and personal,
22 then or subsequently to be acquired, and of said fran-
23 chise, subject only to the conditions therein contained,
24 any law to the contrary notwithstanding.

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 and mayor of said city to give
4 notice according to the mode prescribed in the revised
5 statutes for the foreclosure of mortgages, by publication
6 of notice thereof, which may be published in a news-
7 paper printed in Bangor and Ellsworth, and a record

8 thereof may be made within thirty days after the date
9 of the last publication in the registry of deeds for the
10 counties of Penobscot and Hancock, which publica-
11 tion and records shall be sufficient for the purpose of
12 such foreclosure. Upon the expiration of three years
13 from and after such publication, if the condition shall
14 not within that time have been fulfilled, the foreclosure
15 shall be complete, and shall make the title to said road
16 and to all the property and franchises aforesaid, abso-
17 lute in said towns and 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 bond, the said towns and
7 city may take actual possession in the manner herein-
8 after provided, of the whole of said railroad and of all
9 the property, real and personal of the company, and
10 of the franchise thereof, and may hold the same and
11 apply the income thereof to make up and supply such
12 deficiency, 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 selectmen and mayor, and served upon
16 the president or treasurer, or any director of the com-

pany, or if there be none such, upon any stockholder of the company, stating that the towns and city thereby take actual possession of the whole line of the railroad, and of the property and franchise of the company, shall be a sufficient actual possession thereof, and shall be a legal transfer of all the same, for the purposes aforesaid to the said towns and city, and shall enable the towns and city to hold the same against any other claims thereon until such purposes have been fully accomplished.

SECT. 7. All moneys received by or for the said railroad company, after notice as aforesaid, from any source whatever, and by whomsoever the same may be received, shall belong to, and be held for the use and benefit of the towns and city in manner and for the purposes herein provided, and shall, after notice given to persons receiving the same respectively, be by them paid to the town and city treasurers, or some one of them, which payment shall be an effectual discharge from all claims of the company therefor; but if any person, without such notice, shall make payment of moneys so received to the treasurer of the company, such payment shall be a discharge of all claims of the towns and city therefor; all moneys received by the treasurer of the company, after such notice, or in his hands at the time such notice may be given, shall be

17 by him paid to the town and city treasurers or some
18 one of them, after deducting the amount expended, or
19 actually due for the running expenses of the road, for
20 services of the officers of the company, and for repairs
21 necessary for conducting the ordinary operations of the
22 road. Such payments to the town or city treasurer
23 shall be made at the end of every calendar month, and
24 shall be by him applied to the payment of all the in-
25 terest and principal due as aforesaid. And any per-
26 son who shall pay or apply any moneys received, as
27 aforesaid, in any manner contrary to the foregoing pro-
28 visions, shall be liable therefor, and the same may be
29 recovered in an action for money had and received, in
30 the name of the town and city treasurers, whose duty
31 it shall be to sue for the same, to be by them held and
32 applied as herein required.

SECT. 8. For the purpose of effecting the objects
2 prescribed in the two preceding sections, the selectmen
3 and mayor may cause a suit in equity to be instituted
4 in the name of the towns and city, in the supreme
5 judicial court, in the county of Penobscot or Hancock,
6 against said company, directors, or any other person,
7 as may be necessary for the purpose of discovery, in-
8 junction, account, or other relief under the provisions
9 of this act; and any judge of the court may issue a
10 writ of injunction or any other suitable process, on any

11 such 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 selectmen and mayor
5 shall appoint a board of directors consisting of not less
6 than seven persons, or any other necessary officers,
7 and the persons so appointed shall have all the power
8 and authority of officers chosen or appointed under the
9 provisions of the act establishing said company, and
10 upon their acceptance such officers shall be subject to
11 all the duties and liabilities thereof.

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

9 of said railroad corporation ; which lien shall have
10 the preference and be prior to all other liens and in-
11 cumbrances whatever, and shall be enforced, and the
12 rights and interests of said towns and city protected,
13 when necessary, by suitable and proper judgments,
14 injunctions or decrees of said supreme judicial court,
15 on a bill or bills in equity, which power is hereby
16 specially conferred on said 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 and city voting in meet-
4 ings duly called according to law, within three years
5 after the approval of this act by the governor ; and at
6 least two-thirds of the votes cast at such meetings
7 shall be necessary for the acceptance of this act. The
8 respective town and city clerks shall make a record
9 thereof, and if the act shall be accepted as aforesaid,
10 then after such acceptance and record thereof, all the
11 parts of the act shall take effect and be in full force
12 thereafter on the towns and city so accepting the
13 same.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
March 1, 1870. }

Reported from the Committee on Railroads, Ways and Bridges,
by Mr. HINKS, laid on the table and ordered printed.

S. J. CHADBOURNE, *Clerk.*