

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTIETH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1850.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.  
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1850.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1850.

CHAP. 379.

government or power over or within any of the territories where said company may exercise or enjoy any of the powers, privileges or immunities herein granted to it.

[Approved August 20, 1850.]

Chapter 379.

An act to authorize certain cities and towns to grant aid in the construction and completion of the Kennebec and Portland Railroad.

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

Towns author-
ed to lend aid.

SECT. 1. The cities of Augusta, Gardiner and Bath, and the towns of Hallowell, Richmond, Bowdoinham, Topsham and Brunswick and each of them, or so many of them as shall accept this act, are severally authorized to loan their respective credit to the Kennebec and Portland Railroad Company in aid of the construction and completion of their railroad, in amounts as follows, viz: the city of Augusta, two hundred thousand dollars, the city of Gardiner, one hundred and fifty thousand dollars, the city of Bath, two hundred thousand dollars, the town of Hallowell, one hundred thousand dollars, the town of Brunswick, seventy-five thousand dollars, the town of Topsham, thirty thousand dollars, the town of Bowdoinham, twenty-five thousand dollars, and the town of Richmond, twenty thousand dollars, subject to the following terms and conditions.

Augusta.
Gardiner.
Bath.
Hallowell.
Brunswick.
Topsham.
Bowdoinham.
Richmond.

Act, when to
take effect.

SECT. 2. This act shall not take effect unless it shall be accepted by the directors of said company, and then only so far as regards such of said cities and towns as shall by the written or printed votes of the inhabitants of such cities and towns respectively, at legal meetings duly called and notified for the purpose, accept the same and determine each for itself, the amount of credit which such city or town will loan to said railroad company, not exceeding in any case the sum herein provided to be loaned by said cities or towns respectively; and at least two-thirds of the whole number of votes cast, at the meetings aforesaid in said towns and cities shall be necessary for the acceptance of this act on the part of said cities and towns respectively.

Two-thirds vote.

Scip, when to
be issued.

SECT. 3. Upon the acceptance of the act as aforesaid by any or all of the aforesaid cities or towns, the treasurer of each city or town which shall have accepted the act, is hereby au-

thorized to make and issue from time to time for the purposes contemplated in this act, the scrip of such city or town for the amount granted by such city or town respectively, in convenient and suitable sums payable to the holder thereof on a term of time not less than twenty nor more than thirty years, with coupons for interest attached, payable annually or semi-annually—and to deliver the same to the directors of said railroad company from time to time as may be required, subject to the several provisions of this act. In all cases the scrip shall bear date at the delivery thereof, and the proceeds of the same shall be applied by the directors of the company exclusively to the construction and completion of the Kennebec and Portland Railroad and to the payment of debts incurred for that object.

Term of time.

Date of scrip,
&c.

SECT. 4. Upon the delivery of the scrip as aforesaid, the directors of said company, or the treasurer of the corporation shall execute and deliver to the treasurer of the city or town, for the use of the city or town, furnishing the scrip, the bond of the railroad company in an amount equal to the amount of scrip furnished, payable to such city or town, and conditioned that the company will duly pay the interest on said scrip and will provide for the reimbursement of the principal thereof and hold the city or town (as the case may be) harmless on account of the issue of the same.

Bond to be given
on delivery of
scrip.

SECT. 5. The directors shall also, if required by any city or town, transfer to such city or town upon the delivery of any portion of the scrip as aforesaid, an equal amount in the shares of said company, to be held as security for the faithful performance of all the obligations of the company mentioned in this act; and the certificates of such shares shall be delivered to the treasurer of such city or town and credited in the stock book of the company as fully paid up and not subject to assessments, but the city or town shall not be taken or held to be a stockholder in the company by reason of the transfer of shares for the purpose aforesaid, nor shall any dividends be made or paid on the same nor any right to vote on the same be claimed or exercised so long as the same shall be held as security as aforesaid.

Shares to be
given, if requir-
ed, as security
for scrip.Cities and towns
not considered
stockholders.

SECT. 6. From and after the issue and delivery to the directors of any portion of the scrip aforesaid, the several cities and towns furnishing the same shall have a lien upon the said railroad and upon all the property and the franchise of the company (saving a prior lien upon that portion of the road between the junction with the Atlantic and St. Lawrence Rail-

Lien created on
said road to se-
cure the perform-
ance of bonds,
&c.

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road in Yarmouth and the junction with the Portland, Saco and Portsmouth Railroad in Cape Elizabeth, as conveyed to the trustees of the persons contributing means to make that portion of said road,) to secure the performance of the conditions of all the bonds executed and delivered under the provisions of this act, and said lien shall be held by the several cities and towns which may lend their credit to said road, in the proportions which the scrip issued by such cities and towns respectively, shall bear to the whole sum of eight hundred thousand dollars, and be enforced in the manner hereafter mentioned.

Sinking fund.

Commissioners to manage sinking fund, how appointed.

SECT. 7. For the purpose of providing for the reimbursement of the principal of the scrip authorized to be issued by this act, a sinking fund shall be established, and shall be under the management of two commissioners, one to be appointed by the mayor and aldermen of cities, and the selectmen of towns which shall accept this act, and one by the directors of the company, and in case of a vacancy in the place of either, the same shall be supplied by the party having the right to fill it. Both of the commissioners shall be appointed and qualified before the delivery to the directors of any of the scrip by said cities or towns. The commissioners shall severally be sworn to the faithful discharge of the duties enjoined upon them, and each of them shall give bond with satisfactory sureties in the penal sum of ten thousand dollars conditioned for the faithful discharge of his duty as commissioner. They shall receive such compensation as may be established by the directors, which shall be paid to them by the company and shall not be diminished during their continuance in office.

Commissioners qualified.

Compensation.

Sinking fund, how raised.

SECT. 8. Whenever the directors shall receive any portion of the scrip, authorized as aforesaid to be delivered to them, they shall pay to the commissioners two per cent. of the amount of the scrip so delivered, which amount shall be placed by the commissioners to the credit of the sinking fund established by this act. And the directors shall annually in the month of July pay to said commissioners one per cent. of the whole amount of scrip issued and delivered under this act and which shall then be outstanding; but after five years from the delivery and receipt of any portion of the scrip, the said annual payments shall be increased to one and a half per cent. of the amount of the scrip so issued and then outstanding; and the said annual payments of one per cent. for five years and one and a half per cent. annually thereafter shall be successively placed by the commissioners to the credit of the sinking fund and

shall constitute a part of the sinking fund established by this act.

SECT. 9. The commissioners shall have the care, custody and management of all the moneys, securities and property belonging to said fund, and may, at their discretion, invest the same in stocks of the United States or of this state, or in any of the scrip authorized by this act; and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund; and said commissioners may, from time to time, sell and transfer any of said securities, and reinvest the proceeds in manner aforesaid.

Sinking fund,
how managed.

SECT. 10. The sinking fund aforesaid, and all the sums which shall be added thereto by accumulation or otherwise, shall be reserved and held inviolate for the redemption and reimbursement of the principal of the scrip authorized by this act, at the maturity thereof, and shall be applied thereto by the commissioners.

Sinking fund,
how appropri-
ated.

SECT. 11. Any of the shares in the stock of the company, held by any city or town for security, as provided in the fifth section of this act, may be sold and transferred with the consent of the treasurer of such city or town, and of the directors of the road, whenever an exchange thereof can be advantageously made for any of the scrip authorized by this act, or whenever the scrip can be advantageously purchased with the proceeds of any such sale of such collateral shares; and the scrip so purchased or taken in exchange, shall thereupon be cancelled and extinguished, and the amount thereof shall be endorsed on the bond of the company given on the issue and delivery of such scrip.

Stock held by
cities and towns
as collateral se-
curity, how dis-
posed of.

SECT. 12. If the directors of the company shall at any time fail to pay to the commissioners of the sinking fund the one per cent., or the one and a half per cent. required to be paid to them in July, annually, or fail to pay the coupons for interest on any of the scrip issued under the authority of this act, when due, the treasurer of the cities and towns, respectively, is authorized, at his discretion, after notice to the directors, to sell and transfer so many of the shares held by such city or town for security, as may be necessary to raise the money to meet such payments.

Treasurers of
cities and towns
authorized to sell
shares of stock
in certain cases.

SECT. 13. The commissioners shall keep a true record of all their proceedings, and an account of all the sums paid into the fund, and of the investments of the same; and shall annu-

Commissioners
to keep records
of their proceed-
ings, and report
annually.

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ally in the month of July, report to the mayor and aldermen of cities, and to the selectmen of towns accepting this act, and to the directors of said railroad company; their proceedings for the year, the amount and condition of the fund, and the income of the several parts thereof; and their records and the accounts of the fund, and the securities belonging thereto shall at all times be open to inspection by any committee appointed for that purpose by the directors of the company, or by any city or town interested therein.

Power of the supreme court to enforce the duties of said commissioners.

SECT. 14. To secure the faithful discharge of the several trusts confided to said commissioners under this act, the supreme judicial court is hereby empowered, upon the complaint of any city or town interested, or of the directors of said railroad company, against the said commissioners, or either of them, concerning any of their said trusts and duties, by summary process, according to the course of proceedings in equity, to hear and adjudge upon the matter of such complaint, and to issue thereon any suitable writ or process, and make any lawful decree to compel the proper discharge and performance of such duties and trusts, and to remove said commissioners, or either of them.

Shares, &c., to be transferred to the company on redemption of the scrip.

SECT. 15. Whenever all the scrip issued and delivered to the directors of said company under authority of this act, shall have been redeemed and cancelled by said company, the shares transferred to the cities and towns, respectively; as collateral security, shall be reconveyed and transferred back to said company, and all the moneys, property and securities in the hands of the commissioners of the sinking fund, shall belong to, and be made over to said company; but if such scrip shall not have been so paid and cancelled at the maturity thereof, then said commissioners shall use the funds and property in their hands to redeem and cancel such scrip; and upon the completion of all the duties enjoined upon the commissioners, their records and accounts shall be deposited with the railroad company.

Commissioners authorized to redeem scrip.

Mortgage deed to be given to secure lien, &c.

SECT. 16. For the purpose of securing and enforcing the lien upon said road, as provided for in the sixth section of this act, the directors of said railroad company are authorized and required, before receiving any of the scrip authorized by this act, to execute and deliver, for the security of the several cities and towns which may accept this act and loan their credit to said railroad company, a mortgage deed of all their railroad from Portland to Augusta, including the branch to Bath, and of all the corporate property, real and personal, and of the franchise

of said company, (subject to the lien already given on that portion of said road lying between Portland and the junction in Yarmouth,) or such proportion thereof as the sums loaned by said cities and towns shall bear to the whole amount herein authorized to be loaned, conditioned to save harmless the said cities and towns from all loss or damage by reason of their so lending their credit; which mortgage deed may be made to the commissioners of the sinking fund, and to their successors, in trust for the several cities and towns, herein named, which shall accept this act and loan their credit to said road, in such proportion to each as they shall severally loan their credit to said road under this act; and the president of said railroad is authorized to execute such mortgage, for and in behalf of the railroad company.

SECT. 17. For the purpose of foreclosing such mortgage upon the property and franchise of the company, it shall be sufficient for the commissioners of the sinking fund to give notice, according to the mode prescribed in the fifth section of the one hundred and twenty-fifth chapter of the revised statutes, and to be published in any newspaper printed in the city of Bath, and recorded in the office of the register of deeds for the county of Lincoln, within thirty days after the last publication thereof; and if the conditions of said mortgage shall not be performed within three years after such publication, the foreclosure shall be complete, and shall be sufficient to make the title to all the mortgaged property and franchise absolute in the several cities and towns aforesaid, in the proportions for which they respectively may be creditors at the time of the foreclosure; and any transfer of any of the personal property of the company made after publication of such notice to foreclose, without the consent of the said commissioners, shall be wholly void; but lawful transfers and changes of any of the personal property of the company, excepting the franchise, the rails actually laid, and the right of way, may be made notwithstanding such mortgage, before publication of notice of foreclosure as aforesaid; and all personal property acquired by the company by purchase, exchange or otherwise after the execution of such mortgage shall be covered and held thereby.

SECT. 18. If the directors of said company shall at any time neglect or omit to pay the interest which may become due upon any portion of the scrip issued and delivered under the provisions of this act, or to make the annual payments thereby required for the sinking fund, the commissioners of the sinking

Mortgage, foreclosure of.

Interest, neglect, &c., to pay, commissioners to take possession of road, &c.

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fund may take actual possession, in the manner herein provided, of the said railroad and of all the property real and personal of the company and of the franchise thereof, and may hold the same and apply the income thereof to make up and supply the deficiency of interest, and amounts payable to the sinking fund, and all further deficiencies that may occur while the same are so held by them until such deficiencies shall be fully made up and paid. A written notice signed by said commissioners and served upon the president or treasurer, or any director of the company, or if there are none such, upon any stockholder in the company, stating that the commissioners thereby take actual possession of the railroad and of the property and franchise of the company, shall be a sufficient actual possession thereof and shall be a sufficient legal transfer of all the same for the purposes aforesaid to said commissioners, and shall enable the commissioners to hold the same against any other transfers thereof and against any other claims thereon until such purposes have been fully accomplished; but such possession shall not be considered as an entry for foreclosure under the mortgage, nor shall the rights of the several cities and towns, or of the company under said mortgage be in any manner affected thereby.

Notice of possession, how given.

Possession not to affect certain claims.

Moneys received after said notice, how applied.

SECT. 19. All moneys received by or for the railroad company, after notice as aforesaid, from any source whatever, and by whomsoever the same may be received, shall belong to and be held by said commissioners for the benefit of the cities and towns toward their claims in proportion as they may be severally interested, and shall after special notice to the persons receiving the same respectively, be by them paid to the commissioners, which payment shall be an effectual discharge from all claim of the company therefor; but if any person without such special notice shall make payment to the treasurer of the company, such payment shall be good against the commissioners. All moneys received by the treasurer of the company, after such written notice, or in his hands at the time of such notice, shall be by him paid to the commissioners, after deducting the amount expended or actually due for the running expenses of the road, for the salaries of the officers of the company and for repairs necessary for conducting the ordinary operations of the road; but payment to the commissioners shall be made at the end of every calendar month and shall be by them applied to the payment of the interest due as aforesaid, and any annual payments of one per cent. or one and a half per cent.

Moneys in the hands of treasurer after receiving written notice, to be paid to commissioners.

Payment to commissioners, when made.

hereinbefore provided for which may be in arrear. And any person who shall pay or apply any moneys received as aforesaid, in any manner contrary to the provisions aforesaid shall be personally liable therefor, and the same may be recovered in an action for money had and received in the name of said commissioners, whose duty it shall be to sue for the same, to be by them held and applied to the purposes aforesaid.

SECT. 20. If at any time the directors of said railroad company shall wish to sell and convey any of the property mortgaged to said cities and towns not within the lines of the railroad as located, and which may not be necessary for the operation of said railroad, and shall obtain the written consent of the commissioners of the sinking fund that such sale may be made, they may make such sale or sales on condition that the proceeds thereof be paid or secured to said commissioners to be by them added to and preserved as a part of the sinking fund for the purposes aforesaid, and when any sales are so made, the purchaser or purchasers shall hold the property so purchased free from the claim of said cities and towns.

SECT. 21. This act shall take effect and be in force from and after its approval by the governor.

[Approved August 17, 1850.]

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Liability for moneys applied contrary to the provisions of this act.

Mortgaged property, sale of, &c.

Chapter 380.

An act additional to an act entitled "an act to establish the Bangor and Orono Railroad."

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

SECT. 1. That the "Bangor and Orono Railroad Company," a corporation established by law, be and hereby is authorized and empowered to extend their railroad to the village of Oldtown in the town of Oldtown with branches to the mills on the main Penobscot river in Oldtown, Bradley and Milford; and for this purpose may build one or more bridges across said river, and may if it shall be deemed expedient, construct passenger and freight tracks to the towns last named; and that the same powers and privileges that were granted and the same duties that were imposed by the act establishing said road, approved August seventh, eighteen hundred and forty-seven, to build and manage said road from Bangor to Orono, be and the same

Extension of road.

Powers, privileges, &c.