

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

EXTRA SESSION OF THE THIRTY-SECOND LEGISLATURE, 1853,

AND THE

THIRTY-THIRD LEGISLATURE

OF THE

STATE OF MAINE,

1854.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820,  
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1854.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1854.

Chapter 199.

An act to authorize the city of Bangor to aid the construction of the Penobscot and Kennebec Railroad.

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

SECTION 1. The city of Bangor is hereby authorized to loan its credit to the Penobscot and Kennebec Railroad Company, in aid of the construction of their railroad, not exceeding, however, the sum of five hundred thousand dollars, upon their compliance with the following terms and conditions.

Bangor authorized to loan its credit to the Penobscot and Kennebec R. R. Company. Amount.

SECT. 2. If this act shall be accepted, as hereinafter provided, and said company shall within three years from its approval, produce evidence satisfactory to the mayor and aldermen of said city for the time being, that the sum of five hundred thousand dollars has been collected from the subscriptions to the stock of said company, and paid in and actually expended in the construction of their road and the purchase of the right of way, then such fact shall be certified by the mayor and aldermen to the city treasurer, and he shall forthwith issue to the directors of said company, for the purpose of completing said road, the scrip of said city, payable to the holders thereof at the expiration of twenty years from the date thereof, in the sum of five hundred thousand dollars, with coupons for interest

Terms and conditions.

Scrip, when to be issued.

—amount of

CHAP. 199.

Proviso.

attached, payable semi-annually. *Provided, however,* that the whole amount of said scrip shall not exceed the said sum of five hundred thousand dollars. And *provided further,* that said scrip of five hundred thousand dollars may be sub-divided and issued in lieu thereof for such sums as the parties may deem expedient.

Scrip, bond for payment of, &c.

SECT. 3. Concurrent with the delivery of said scrip as aforesaid, the president and directors of said company, in their official capacity, shall execute and deliver to said city treasurer, the bond of said company in the penal sum of ten hundred thousand dollars, payable to said city, conditioned that said company will duly pay the interest on said scrip and the principal thereof, and in all respects hold and save the city harmless on account of the issue of the same. And shall also execute and deliver to said treasurer, 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 treasurer to said company with the like coupons attached. Which scrip shall be held by said city as collateral security for the fulfillment of the conditions of said bond, and in default of any one of said conditions, said city may from time to time sell said scrip or any portion thereof, at public auction or auctions in the cities of Bangor, Boston or New York, 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.

—of company, delivery of.

—held as collateral security, may be sold, &c.

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 city, and the delivery of their bond to said city, to secure the payment of the same, to execute and deliver to said city a mortgage of said railroad, and of all the property of said company, real and personal, which they then have or may subsequently acquire, together with their franchise without prior incumbrance, which mortgage shall be signed by the said president in his official capacity, and shall be executed according to the law of this state, and shall be in due and legal form, and shall contain apt and sufficient terms to secure to said city the fulfillment of all the conditions in said bond contained; and said mortgage, so executed, and delivered and recorded in the registry of deeds for the county of Penobscot, shall, to all intents and purposes be, and the same is hereby declared to be, a full and complete transfer of said railroad, of all the property of said company,

Mortgage of road, &c., to secure fulfillment of conditions of bond.

—how executed, recorded, &c.

real and personal, then or subsequently to be acquired, and of said franchise, subject only to the conditions therein contained, any law to the contrary notwithstanding; and all the proceedings in the organization of said company, and choice of directors, shall be deemed valid and regular.

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Organization of company made valid.

SECT. 5. For the purpose of foreclosing said mortgage, it shall be sufficient for the said mayor and aldermen to give notice according to the mode prescribed in the fifth section of the one hundred and twenty-fifth chapter of the revised statutes, which notice may be published in a newspaper printed in said city of Bangor, and record thereof may be made within thirty days after the date of the last publication, in the registry of deeds for the county of Penobscot; which publication and record shall be sufficient for the purposes of such foreclosure. Upon the expiration of three years from and after such publication, if the conditions of said mortgage shall not within that time have been performed, the foreclosure shall be complete, and shall make the title to the railroad, and to all the property and franchise aforesaid, absolute in said city.

Mortgage, foreclosure of.

SECT. 6. If the directors of the 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 pay the principal as it shall become due, or to comply with any of the conditions of said bond, the city of Bangor may take actual possession in the manner hereinafter provided, of the railroad, 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 such deficiencies, and all further deficiencies that may occur, while the same are so held, until such deficiencies shall be fully made up and discharged. A written notice signed by the mayor and aldermen, 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 city thereby takes 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 legal transfer of all the same for the purposes aforesaid to the city, and shall enable the city to hold the same against any other transfers thereof, and against any other claims thereon, until such purposes have been fully accomplished. Such possession shall not be considered as an entry for foreclosure, under any mortgage hereinbefore provided, nor shall the rights of the city or of the company under such mortgage, be in any manner affected thereby.

In case of neglect of company to pay principal or interest of scrip, city of Bangor may take possession of road.

Possession, notice of, &c., how given.

—not to be considered a foreclosure.

CHAP. 199.

Receipts of road,
how appro-
priated.

SECT. 7. 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 for the use and benefit of the city, in the manner and for the purposes herein provided, and shall, after notice given to persons receiving the same, respectively, be by them paid to the city treasurer, 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 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 by him paid to the city treasurer, 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. Such payments to the city treasurer shall be made at the end of every calendar month, and shall be by him applied to the payment of all the interests and principal due as aforesaid. And any person who shall pay or apply any moneys received as aforesaid, in any manner contrary to the foregoing provisions, shall be liable therefor, and the same may be recovered in an action for money had and received, in the name of the city treasurer, whose duty it shall be to sue for the same, to be by him held and applied as is herein required.

—payment of,
when made.

Injunction, &c.

SECT. 8. For the purpose of effecting the objects prescribed in the two preceding sections, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city of Bangor, in the supreme judicial court in the county of Penobscot, against the railroad company, its directors, or any other person, as may be necessary, for the purpose of discovery, injunction, account or other relief under the provisions of this act. And any judge of the court may issue a writ of injunction or any other suitable process on any such bill, in vacation or in term time, with or without notice, and the court shall have jurisdiction of the subject matter of such bill, and shall have such proceedings and make such orders and decrees as may be within the powers and according to the course of proceedings of courts of equity, as the necessities of the case may require.

—writ of.

Directors, how
chosen in case
of neglect of
company.

SECT. 9. If the railroad company shall, after notice of possession as aforesaid, neglect to choose directors thereof, or any other necessary officers, or none such shall be found, the mayor

and aldermen of the city shall appoint a board of directors, CHAP. 199. consisting of not less than seven persons, or any other necessary officers, and the persons so appointed shall have all the power and authority of officers chosen or appointed under provisions of the act establishing said company, and, upon their acceptance, such officers shall be subject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint one of the directors of said railroad company from among the stockholders, who shall be chosen annually by the city council in joint ballot, before the annual meeting of said company for the choice of their officers, who shall have the same authority in transacting the business of said company, and who shall be entitled to like compensation from the company as any other director. But the right to choose such director shall cease when the loan contemplated is extinguished.

Directors, one shall be appointed from among the stockholders.

—right to choose to cease.

SECT. 11. As an additional or cumulative protection for said city, all liabilities, which by said city may be assumed or incurred under or by virtue of any of the provisions of this act, shall at the times and by force thereof and for the security and payments of the same, create in favor of said city a lien on said railroad, its franchise and all of its appendages and on all the real and personal property of said railroad corporation, which lien shall have the preference and be prior to all other liens and incumbrances whatever, and shall be enforced and the rights and interest of said city protected, when necessary, by suitable and proper judgments, injunctions or decrees of said supreme judicial court on a bill or bills in equity, which power is hereby specially conferred on said court.

Lien created as additional protection.

SECT. 12. This act shall not take effect, unless it shall be accepted by said company, and by a vote of the inhabitants of said city, voting in ward meetings, duly called according to law; and at least two-thirds of the votes cast at such ward meetings shall be necessary for the acceptance of this act. The return of such ward meetings shall be made to the aldermen of said city, and by them counted and declared, and said city clerk shall make a record thereof; but this act shall take effect from and after its approval by the governor, so far as to empower the railroad company and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose shall be called and holden within six months after such approval; and the same time shall be allowed for its acceptance by the

Act, acceptance of, &c.

—to take effect.

CHAP. 200. said company, which acceptance shall be recorded on their books. And if the act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of the act shall take effect, and be in full force.

[Approved March 1, 1854.]

Chapter 200.

An act to authorize the city of Bangor to aid the construction of the Oldtown and Lincoln Railroad.

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

Bangor authorized to loan its credit to the Oldtown and Lincoln R. R. Company.
Amount.

SECT. 1. The city of Bangor is hereby authorized to loan its credit to the Oldtown and Lincoln Railroad Company, in aid of the construction of their railroad, not exceeding however the sum of three hundred and twenty-five thousand dollars, upon their compliance with the following terms and conditions.

Road from Milford to Lincoln.

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall, within three years from its approval, produce evidence satisfactory to the mayor and aldermen of said city for the time being, that the sum of two hundred and twenty-five thousand dollars has been collected from the subscriptions to the stock of said company, and paid in, and actually expended in the purchase of the right of way, and the construction of that section of their road extending from the terminus of said road in the town of Milford, to its terminus in the town of Lincoln, and that the road bed for such section, including all necessary bridges and masonry, ready for the superstructure, has been completed, then such facts shall be certified by the mayor and aldermen to the city treasurer, and he shall forthwith issue to the directors of said company, for the purpose of completing said road, the scrip of said city, payable to the holders thereof, at the expiration of twenty years from the date thereof, in the sum of two hundred and twenty-five thousand dollars, with coupons for interest attached, payable semi-annually. *Provided, however,* that said scrip of two hundred and twenty-five thousand dollars may be subdivided, and issued in such sums, and at such times thereafter, as may be convenient for said company; and in like manner if said company shall, within three years from the approval of this act, produce evidence satisfactory to the mayor and aldermen of said city for the time being, that the further sum of one

Scrip, when to be issued.

--amount of.

Proviso.