

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE,

1855.

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

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1855.

PRIVATE AND SPECIAL LAWS ·

OF THE

STATE OF MAINE.

1855.

powers and privileges, and subject to all the duties and liabilities, granted and required by the laws of this state. CHAP. 465.

SECT. 2. The said corporation may purchase and hold real and personal estate to an amount not exceeding one hundred thousand dollars, with full power to manage and dispose of the same. May hold real and personal estate. Amount \$100,000.

SECT. 3. Any two of the persons named in this act may call the first meeting of said corporation, at such time and place as they shall see fit, by publishing notice therefor two weeks successively in some newspaper published in Augusta aforesaid, for the purpose of organizing said corporation. First meeting.

SECT. 2. This act shall take effect and be in force from and after its approval by the governor.

[Approved March 1, 1855.]

Chapter 465.

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

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

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

SECT. 2. If this act shall be accepted as hereinafter is provided, and said company shall, within three years after its approval, produce satisfactory evidence to the mayor and aldermen of said city for the time being, that the right of way and depot grounds, including the property on Exchange street, known as Roberts' wharf, being all of the property on Exchange street, conveyed by Amos M. Roberts to Gideon Mayo for the consideration of about thirty-seven thousand dollars, has been paid for, extending from its terminus on Kenduskeag stream, in Bangor, to its terminus, in Milford, there uniting and connecting with the Milford and Lincoln railroad, crossing the river at Oldtown either on its track as at present located, or in connexion with the Bangor and Piscataquis Canal and Railroad Company, on the bridge erected by said company above the falls, by a right fully and perpetually secured for that purpose, which connexion, the said companies interested, are hereby authorized to make on terms to be mutually agreed upon by them, and to make within the said three years, such changes in the locations of Terms and conditions.

CHAP. 465. their respective roads, as shall be necessary therefor, in the manner prescribed by law, and that the said road including any such new location is completed and finished, including ballasting, gravelling, and laying the rails, with all the necessary bridges and masonry, culverts, cattle-passes, turn-tables, turn-outs, depots and way stations, and is equipped with all the furniture and apparatus necessary and proper for such road, and with rolling furniture, the property of said company and ready for use, provided said rolling furniture need not exceed in value sixty thousand dollars, all to be done and finished in a style of perfection and completeness equal to that of any first class road in this State, then on such facts being on actual examination found to exist, by the mayor and aldermen of said city, to their satisfaction, they shall certify the same to the city treasurer, and he shall forthwith issue to the directors of said company the scrip of said city, payable to the holders thereof, in the sum of one hundred and seventy-five thousand dollars. The said scrip shall be issued in such sums and at such times as the directors of said railroad company shall desire, payable to the holders thereof, with coupons for interest, payable semi-annually, at the rate of six per cent. per annum, attached, redeemable as follows: ten thousand dollars in ten years from the date of the first issue of said scrip, and the remainder at the rate of ten thousand dollars a year, each year thereafter, until the whole one hundred seventy-five thousand dollars is paid.

Scrip, when to be issued.

—amount of.

—how issued and payable.

—bond for payment of, &c.

—of company, delivery of.

—held as collateral security.

—may be sold, &c.

SECT. 3. Concurrent with the delivery of the said scrip as afore-said, 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 three hundred and fifty 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.

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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 the 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, 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; but this provision is not to affect any suits now pending.

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

—how executed, recorded, &c.

Organization of said company made valid.

SECT. 5. For the purpose of foreclosing said mortgage it shall be sufficient for 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 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 purpose of such foreclosure.

Mortgage, foreclosure of.

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 of the railroad, and to all the property and franchise aforesaid, absolute in said city.

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

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

CHAP. 465. 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 of 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 transfer thereof, and against any other claim thereon, until such purposes have been fully accomplished. Such possessions 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 any mortgage, in any manner be affected thereby.

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

—not to be
considered a
foreclosure.

Receipts of road,
how appropri-
ated.

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 payments 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 interest 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 any 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 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 persons, 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.

Injunction, writ of.

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, 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.

Directors, how chosen in case of neglect of company.

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.

SECT. 11. As an additional or accumulative 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 time and by force thereof, and for the security and payment of the same, create in favor of said city a lien on said railroad, its franchise and all of its appendages, and 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 interests 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.

—right to choose to cease.

Lien created as additional protection.

SECT. 12. To enable the said railroad company to have the benefit of this act and the aid of the credit of the city, herein provided for, it shall not be necessary that they shall construct their road from Newbury street to the foot of Exchange street, upon their

May change location.

CHAP. 465. present location, but they may change the location as they shall find it expedient to do, complying with the requirements of the law therein, and the further time of three years from the approval of this act, is hereby granted therefor, but the terminus of such new location shall be at the foot of Exchange street. And if when the said road shall be completed and equipped in the manner provided in this act, so that the company would by the terms thereof be entitled to require the issue of the said scrip, and it shall appear that claims for land damages have not been paid because the same are in litigation, and the amount to be paid has not been determined by a final judgment, the company, if required by the mayor and aldermen, shall give a bond to the city in a sufficient sum conditioned to pay the amount of such damages, whenever the amount of the same shall be determined by a final judgment, and the mayor and aldermen, as a further security to the city that such damages shall be paid, may cause to be retained in the hands of the city treasurer such amount of the said scrip as they shall judge to be necessary for that purpose, as collateral security therefor, and shall thereupon, when required, according to the provisions of this act, issue the balance of said scrip to said company.

Location, time of, extended.

Bond to be given to city for security for claims on land damages.

City may retain scrip.

Act, acceptance of, &c.—to take effect.

SECT. 13. 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, within six months after the approval of this act by the governor, 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.

Company to give a release for certain damages.

SECT. 14. And said railroad company shall execute and deliver a release for all damages which may be occasioned to the road in consequence of any dam at Treat's falls, which may be erected for purposes of creating a water power.

SECT. 15. The provisions of this act shall be in force from and after its approval by the governor.

[Approved March 1, 1855.]