

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115

PASSED BY THE

FORTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1866.

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

AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.
1866.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1866.

CHAP. 118. necessary to rebuild any of said company's works, the tolls may be increased, but not to exceed the amount mentioned in this act.

Approved February 20, 1866.

Chapter 118.

An act to make valid the doings of the municipal officers of the town of Lebanon.

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

Assessments upon inhabitants, and notes of treasurer, for moneys for bounties, made valid.

SECT. 1. The assessment made by virtue of a vote to raise thirteen thousand seventy-seven dollars and forty-four cents, upon the inhabitants of Lebanon, in eighteen hundred sixty-five, and the notes given by Thomas M. Wentworth, treasurer of said town, for an amount not exceeding eleven thousand seven hundred and thirty dollars, to raise funds to fill the quota of Lebanon, under the call of the President of the United States, December nineteen, eighteen hundred sixty-four, for three hundred thousand troops, are hereby made valid and binding upon said town.

SECT. 2. This act to take effect from and after its approval by the governor.

Approved February 20, 1866.

Chapter 119.

An act to authorize the city of Bangor to further aid the construction of the European and North American Railway.

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

Credit of city may be further loaned to amount of \$500,000.

SECT. 1. The city of Bangor is hereby authorized to further loan its credit to the European and North American Railway Company in aid of the construction of their railroad, not exceeding however, the additional sum of five hundred thousand dollars, upon their compliance with the following terms and conditions.

Conditions.

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall within two years from its approval, finish and complete their line of railway from the depot of the Maine Central Railroad in the city of Bangor to a point ten miles above a point opposite the Bangor, Oldtown and Milford depot in Milford village, to the approval of the mayor and aldermen, for the time being, of the said city, as a first class railroad, and shall have acquired the right of way according to law by payment of awards

and other land damages, or by a deposit of the amount thereof, with the clerk of the courts as by law required, then such fact shall be certified by said mayor and aldermen to the treasurer of said city, and he shall forthwith issue to the directors of said company, for the purpose of building and completing said road to Winn, the scrip of said city to the amount of two hundred thousand dollars, and on the completion of ten additional miles of said road in the direction of Winn, and payment of damages, or deposit thereof by said company, as aforesaid, and approval by the mayor and aldermen of said city, for the time being, they shall certify that fact to the city treasurer, who shall forthwith issue to the directors of said company an additional sum of one hundred thousand dollars of the scrip of said city, for the purposes aforesaid; and on the completion of said railway to the tannery village in the town of Winn, opposite to the Five Islands in Penobscot river, and payment of land damages, or deposit thereof as aforesaid, by said company within three years from the approval of this act, to the approval of the mayor and aldermen of said city, for the time being, they shall certify that fact to the city treasurer, who shall forthwith issue to the directors of said company an additional sum of two hundred thousand dollars of the scrip of said city. All of said scrip shall be signed by the city treasurer and countersigned by the mayor, for the time being; be issued in sums not less than one hundred dollars or more than one thousand dollars each, with coupons for interest attached, payable semi-annually, payable to the holder thereof, in Boston or New York, the principal payable in thirty-five years from the date of the first issue of scrip under this act; *provided* the whole amount of scrip issued under this act shall not exceed the sum of five hundred thousand dollars; and each issue of said scrip shall bear date of the certificate of the mayor and aldermen to the city treasurer, on the receipt of which he is authorized to issue the same, and all shall be secured by the bond and mortgage hereinafter mentioned, which shall be executed and delivered to the city treasurer on the first issue of said scrip.

SECT. 3. Concurrent with the first 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 scrip authorized to be issued by this act; 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* under and by virtue of this act, 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; the said president and directors of said com-

City scrip,
when and to
what amounts
to be issued.

Scrip, how
signed, issued,
when and
where payable.

Proviso.

Bond and
conditions of
same.

Scrip of co. to
be delivered

CHAP. 119.

city treasurer
and held as
collateral
security.

In default of
conditions,
scrip may be
sold at auction
after due notice
to company.

Mortgage and
purchase of
railroad
secured to city.

Bond and
mortgage to be
recorded.

Foreclosure.

pany shall also, in case of the issuing of the scrip of said city as provided in section two of this act, and simultaneously therewith, make, execute and deliver to the said city treasurer the scrip of said company payable to the holder thereof, at the same time and for the same amount as the scrip then issued by said treasurer to said company, with like coupons for the interest attached, which said scrip shall be held by said city as collateral security for the fulfilment of the conditions of the 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, by public auction or auctions, in the cities of Bangor, Boston or New York, or either of them, after sixty days notice in writing to the president, or one of the directors, or any three of the stockholders of said company, naming therein the time and place of sale. The net proceeds of all such sales shall be endorsed on one of said bonds.

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 the first issue of said city scrip and upon the delivery of their bond to said city to secure the payment of the same, to execute and deliver to the city treasurer a mortgage of their railroad from Bangor to Winn, and all the property real and personal of said company and the franchise thereof, without prior incumbrance, except the mortgage to the city of Bangor on said line from Bangor to Lincoln, as provided in the act entitled "an act to authorize the city of Bangor to aid the construction of the European and North American Railway," approved March twenty-fifth, eighteen hundred and sixty-four; said mortgage shall be executed according to the laws of this state, and shall be in due and legal form and contain apt and sufficient terms to secure the said city the fulfilment of all the conditions in said bond contained. Said bond and mortgage shall be recorded in the registry of deeds of the county of Penobscot, which shall be sufficient to protect the rights of said city, and no other recording shall be required.

SECT. 5. For the purpose of foreclosing said mortgage for conditions broken, it shall be sufficient for the said mayor and aldermen to give notice according to the mode prescribed in the revised statutes for the foreclosure of mortgages, by publication of notice thereof, which may be published in a newspaper printed in Bangor, and a 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. Upon the expiration of three years from and after such publication, if the condition shall not within that time have been fulfilled, the foreclosure shall be complete, and shall make the title to said road, and to all the property and franchise aforesaid, absolute in said city.

SECT. 6. 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 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 whole of 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 such deficiency 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 a majority of the aldermen of said city, 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 whole line of the railroad, and of the whole 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 claims thereon until such purposes have been fully accomplished.

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In default by company of conditions herein imposed, city may take possession of road, &c.

Possession, how effected.

SECT. 7. All moneys received by or for the said railroad company, after notice as aforesaid, from any grant of Congress, or of the States of Maine and Massachusetts, or 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 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 services 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 an action for money had and received, in the name of the city treasurer,

Moneys received by grants, &c., to company to be paid to and held by city.

Payments to be made monthly.

Liability of individuals for violation of provisions herein made.

CHAP. 119. whose duty it shall be to sue for the same, to be by him held and applied as herein required.

Suits in equity. **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 said company, 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 power, and according to the course of proceedings of courts of equity, as the necessities of the case may require.

Injunction.

Powers of court.

In case of neglect of co. to choose directors mayor and aldermen may appoint same. **SECT. 9.** If the said 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 the provisions of the act establishing said company, and upon their acceptance, such officers shall be subject to all the duties and liabilities thereof.

City directors, when and how chosen and authority of same. **SECT. 10.** Three-fourths of the directors of said company shall be resident citizens of said city, and two of this number shall be appointed by the city council, and 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 directors. But the right to choose such directors shall cease when the loan contemplated is extinguished.

Lien. **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 time, and by force thereof, and for the security and payment of the same, create in favor of said city, a lien on the whole of said railroad, its franchise, and all its appendages, and all real and personal property of said railroad corporation wherever situated, which lien shall have preference and be prior to all other liens and incumbrances whatever, except as aforesaid, on the said road and on all the other property of said railroad corporation, and said lien shall be enforced and all the rights and interests of said city shall be protected when necessary, by suitable and proper judgments, injunction or decrees of said supreme judicial court, on a bill or

Conditions of same and how enforced.

bills in equity, which power is hereby specially conferred on said court. And it is hereby provided, that the said lien provided for in this section shall not be deemed waived or ineffectual by the acceptance on the part of said city, of any mortgage or other securities contemplated by the provisions of this act, or otherwise.

SECT. 12. This act shall not take effect until it shall have been duly accepted by said city of Bangor, by a vote of the legal voters thereof, voting in ward meeting duly and legally called, within eleven months from and after its approval, and by a majority of, at least, three-fourths of the legal voters of said city present and voting at said meetings as aforesaid; nor shall said act take effect until the same shall be duly accepted by the city council of said city, by concurrent vote of the two boards of said council, and by a majority of five-sevenths of the aldermen present and voting, and a majority of three-fourths of the common council at a meeting duly called for the purpose, at least thirty days subsequent to its acceptance by vote of the city as hereinbefore provided. The returns of such ward meetings shall be made to the aldermen of said city, and by them counted and declared, and the clerk of said city shall make a record thereof, and if the act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of this act shall take effect and be in full force thereafter.

Acceptance of act, when and how made.

Proceedings at meeting, returns and record.

SECT. 13. The provisions of this act shall be in force from and after its approval by the governor.

Approved February 20, 1866.

Chapter 120.

An act to authorize Everett W. Stetson and Joseph H. Stetson to extend a wharf into the tide waters of the Damariscotta river.

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

SECT. 1. Everett W. Stetson and Joseph H. Stetson of Damariscotta in the county of Lincoln, their heirs and assigns, are hereby authorized and empowered to make and maintain, upon their own land, in the tide waters of the Damariscotta river, in Newcastle, certain additions to their wharf in said Newcastle, known as the Bryant wharf, namely:—to extend said wharf southerly by the westerly bank of said river three hundred feet; and easterly to the westerly edge of the channel of said river.

Construction of wharf, extent and direction of same.

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

Approved February 20, 1866.