

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FORTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE.

1868.

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1868.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1868.

CHAP. 470.

Chapter 470.

An act to authorize the city of Bangor to aid the construction of a railroad into Piscataquis county.

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

Loan of credit by city and limit thereof.

SECT. 1. The city of Bangor is hereby authorized to loan its credit to the Bangor and Piscataquis Railroad Company in aid of the construction of their railroad into Piscataquis county, to an amount not exceeding fifteen thousand dollars per mile, upon its compliance with the following terms and conditions :

Conditions of same.

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall within two years from its approval locate its line, and shall within four years from its approval complete their railroad to the Piscataquis river, at or near the village of Milo, and thence to the village of Dover or Foxcroft, from some point on the line of the European and North American Railway in the town of Milford or Oldtown, to the approval of the mayor and aldermen of said city of Bangor, as a first class railroad, so that cars may pass over the same the whole distance, and shall perform the other conditions hereinafter named, then the said company shall be entitled to receive the full amount of fifteen thousand dollars per mile, as herein provided.

Payments, when made.

SECT. 3. When said company shall complete five miles of said railroad from its southern terminus, connecting such other railroad as aforesaid, then they shall be entitled to receive the sum of seventy-five thousand dollars, and a like sum for every additional five miles so completed, and so on till the whole line is finished by the running of cars thereon, all said payments to be made by the scrip of said city, payable to the holder thereof in such sums as the directors of said road may determine, with coupons for interest attached, payable semi-annually, the principal payable in thirty years from the date thereof, and all payable in Boston or New York, and the same to be signed by the city treasurer and countersigned by the mayor of said city.

Where and when payable.

Bond of corporation to city and conditions thereof.

SECT. 4. Concurrent with the 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 the scrip authorized to be issued at that time; 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 at the time of the date of the bond respectively, 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

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president and directors of said company 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 said bond.

Scrip of corporation to issue to city in equal amount with scrip of city.

To be held by city as collateral, and in default of conditions of bond, sold by auction.

SECT. 5. 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 city scrip, and upon the delivery of their bond to said city to secure the payment of the same, to execute and deliver to said city treasurer, a mortgage without prior incumbrance, of their railroad from Milford or Oldtown northward or westward into Piscataquis county, and all of the property, real and personal, including the franchise thereof; said mortgage shall be executed according to the laws of this state, and shall be in due and legal form, and shall contain apt and sufficient terms to secure the said city the fulfilment of the conditions in said bond contained.

Corporation to give city security by mortgage of corporate property and franchise.

SECT. 6. 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 franchises aforesaid, absolute in said city.

Foreclosure of mortgage, how and when made.

SECT. 7. 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 bonds, the city of Ban-

City may take possession of road upon non-fulfilment of conditions.

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Income of road,
how held and
applied.

Possession and
transfer of
road to city,
how made, &c.

All moneys
thereafter
received
made payable
to city.

Moneys in
hands of treas-
urer to be
paid to city
treasurer after
certain deduc-
tions.

When made
and how by
city treasurer
applied.

Liability of
persons for
violation of
foregoing
provisions.

How enforced
and powers of
S. J. Court in
regard thereto.

gor may take 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 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 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 city, and shall enable the city to hold the same against any other claims thereon until such purposes have been fully accomplished.

SECT. 8. 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 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 calender 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, whose duty it shall be to sue for the same, to be by him held and applied as herein required.

SECT. 9. 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.

SECT. 10. 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, after notice of possession, may appoint officers.

Their powers and duties.

SECT. 11. The city shall appoint two of the directors of the 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.

The directors to be chosen annually by city until extinguishment of loan.

SECT. 12. 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, which lien shall have preference and be prior to all other liens and incumbrances whatever on the said road from Milford or Oldtown northward or westward in Piscataquis county, and 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 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.

Liabilities assumed or incurred by city to create prior lien on road, franchise, &c.

How enforced.

Lien not affected by mortgage or other securities.

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Act, when and how accepted by city.

SECT. 13. This act shall not take effect or be of any force until the city council of said city, by a concurrent vote of at least two-thirds of the members of each branch present and voting, shall submit the same to a vote of the people of the city, and the legal voters of the city in legal ward meetings shall by a vote of two-thirds of all the votes thrown in the city at such meetings adopt the same. But if within one year from the approval of this act the city shall accept this act by such concurrent vote of the city council and of the citizens as aforesaid, then the act shall be in force thereafter, and be binding upon the city according to its true tenor and effect, but not otherwise.

Moneys and proceeds of lands directed by act of 1864 to be applied to construction of road.

SECT. 14. And Whereas, the State of Maine by an act entitled "An act to provide means for the defence of the northeastern frontier," approved March twenty-fourth, eighteen hundred and sixty-four, donated all its lands lying in the county of Piscataquis to aid the construction of a branch railway to the slate quarries in the valley of the Pleasant river at Brownville, and to the Katahdin Iron Works from any point on the line between and including Oldtown and Lincoln; it is hereby declared that the proceeds of said lands derived from the sale of land and timber, or from the bonds secured by mortgage of said lands, shall be applied by said railway company to the building of said branch railway as described in this act; and all moneys, lands or other securities applicable to the building of said branch railway received from the claims of Maine and Massachusetts upon the United States government shall be applied to the building of said railway as described in this act; but before this section of this act shall become binding upon the European and North American Railway, it shall be accepted by said European and North American Railway Company by a majority vote of the stockholders thereof at a legal meeting to be duly called for that purpose.

Provisions of this section not binding upon E. & N. A. Railway until accepted by stockholders thereof.

Act of Feb. 28, 1867, repealed.

SECT. 15. That the "act to authorize the city of Bangor to aid the construction of a railroad into Piscataquis county," approved February twenty-eighth, in the year of our Lord one thousand eight hundred and sixty-seven, be and the same is hereby repealed.

Non-fulfilment of conditions herein expressed, to enable city to take possession of road and manage same.

SECT. 16. If the 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 provisions of said bonds, then said city of Bangor may take actual possession of said road with all its appurtenances, and to manage the same as fully as a board of directors of said company for the time being, to appoint the requisite officers and agents, and to discharge the same, to fix the rate of fare and tolls,

Powers of city in such management.

subject to the restrictions of the charter of said company, and to demand and receive the same with the right to prosecute and defend suits in the name of said company, and to do all things which said company itself, or the directors thereof, might or could lawfully do, after paying the running expenses; said city may apply sufficient of the earnings of said road to keep it, its buildings and equipments, in repair, and to prevent any deterioration thereof, and to provide for such new rolling stock as may be necessary, and then to apply the residue of said earnings to the payment of the interest, coupons and scrip or bonds aforesaid; and whenever said interest and all dishonored coupons, scrip or bonds, secured by said mortgage, referred to in this bill, shall have been paid, said city shall relinquish the control of said road and deliver any property of said company in its possession to said company or its assigns; *provided however*, said city, its officers or agents while operating said road under the provisions of this section, shall not be liable except for malfeasance or fraud, and shall have the right to apply any funds received from the earnings of said road in the management of said road for which said city shall be liable in land to third parties, and the delivery back to said company of any property of said company in its possession, shall be no discharge of its lien thereon, nor prevent said city from again taking possession of said road and property on any future breach of the condition of said bond.

Earnings, how applied.

When to relinquish control of road.
Proviso.

SECT. 17. This act shall take effect when approved.

Approved February 12, 1868.

Chapter 471.

An act to incorporate the city of Auburn.

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

SECT. 1. The inhabitants of the town of Auburn, in the county of Androscoggin, shall continue to be a body politic and corporate, by the name of the city of Auburn, and as such shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises, and be subject to all the duties and obligations now appertaining to or incumbent upon said town as a municipal corporation, or appertaining to or incumbent upon the inhabitants or selectmen thereof; and may ordain and publish such ordinances, by-laws and regulations, not inconsistent with the constitution and laws of this state, as shall be needful to the good order of said body politic; and impose fines and penalties for the breach there-

Corporate name.

Rights, powers, &c.

Ordinances, &c.

Fines, penalties, &c.