

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115

OF THE

FORTY-NINTH LEGISLATURE

OF THE

STATE OF MAINE.

1870.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1870.

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**Chapter 491.****CHAP. 491.**

An act to authorize the city of Bangor to aid in the construction of the Winterport 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 in scrip to the Winterport Railroad Company, in aid of the construction of their railroad from Winterport to some point within the limits of the city of Bangor, within one half of a mile of Penobscot river, to an amount not exceeding fifteen thousand dollars per mile, nor more than two hundred ten thousand dollars in all, upon its compliance with the following terms and conditions.

Loan in scrip to aid in construction of Winterport Railroad, authorized.

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 from tide water in the village of Winterport to some point within the limits of the city of Bangor, within one half of a mile of the Penobscot river, to the approval of the mayor and aldermen of said city of Bangor, as a first class railroad with sufficient depots and turn tables, 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 in scrip, as herein provided. Said scrip shall be signed by the city treasurer, and countersigned by the mayor of said city, and shall bear date at the time of the issue thereof, and be made payable to the holder thereof in such sums as said directors may determine, with coupons for interest attached, reckoned at the rate of six per cent. per annum, payable semi-annually, free of government tax, the principal payable on the first day of April, in the year of our Lord nineteen hundred, in Boston ; and be secured by the bond and mortgage of said company, hereinafter mentioned, which shall be executed and delivered to the city treasurer on the issue of said scrip.

Acceptance of act, location and construction of line.

Scrip, date and time of payment of.

SECT. 3. Concurrent with the issue and delivery of said scrip as aforesaid, the president and directors of said company, in their official capacity, shall execute and deliver, or cause to be executed and delivered, to the treasurer of said city, the bond of said company in the penal sum of double the amount of said city 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 said government tax, and also the principal thereof, according to the tenor of said scrip ; and in all respects will hold and save harmless said city on account of the issue of the same ; said president and directors shall also, in

Bond of company shall be delivered to city treasurer on issuing of scrip.

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

case of the issuing of said scrip of said city, as provided in section two of this act, and simultaneously therewith make, execute and deliver, or cause to be made, executed and delivered to 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 and delivered by said city treasurer to said company, with like coupons for interest attached, which scrip shall be held by said city as collateral security for the fulfilment 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, 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, 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.

Company to give city security by mortgage of corporate property.

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 and delivery of said city scrip, and upon the delivery of said bond of said company to said city treasurer to secure the payment of the same, to execute and deliver or cause to be executed and delivered to said city treasurer a mortgage of said railroad, and of all the property of said company, real and personal, which said company then has or may thereafter acquire, together with the franchise of said company without prior incumbrance, which mortgage shall be in due and legal form and executed according to the laws of this state, and contain apt and sufficient terms to secure to said city the fulfilment of all the conditions of said bond; 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 owned by said company or subsequently to be acquired, wherever the same may be found or situated, and also of the franchise of said company, subject only to the conditions and exceptions contained in said mortgage.

Foreclosure of mortgage, how and when made.

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 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 publications, 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 said property, real and personal, and said franchise, absolute in said city.

SECT. 6. If the directors of said company shall at any time neglect or omit to pay the interest and said tax, which may become due upon any portion of said scrip issued and delivered under the provisions of this act, or to pay the principal as it becomes due, or to comply with any of the conditions of said bond, the city of Bangor may take possession in the manner hereinafter provided, of the whole of said railroad, and of all the property, real and personal, of said company, and of the franchise thereof, and may hold the same, and apply the income thereof to make up and supply such deficiencies that may occur while the same are so held, until all 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 said company, or, if there are none such, upon any stockholder of said 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 the same for the purposes aforesaid, to the city, and shall enable the city to hold the same against any other claims thereon, except the claims of said city hereinbefore mentioned, until such purposes have been fully accomplished.

SECT. 7. 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 the persons receiving the same, respectively be by them paid to the city treasurer, which payment shall be an effectual discharge from all claims of said company therefor; but if any person without such notice shall make payment of moneys so received to the treasurer of said company, such payment shall be a discharge of all claims of the city therefor against such person. All moneys received by the treasurer of said 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 such tax 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

City may take possession of road upon non-fulfillment of condition.

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 treasurer to be paid to city treasurer after certain deductions.

—when made and how by city treasurer applied.

Liability of persons for violation of foregoing provisions.

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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 hereinafter required.

How enforced,  
and powers of S.  
J. court in regard  
thereto.

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, or 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 bills, 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.

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

SECT. 9. 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 thereof, as it shall become due, or said government tax, or to comply with any of the provisions of said bond, then said city of Bangor may take actual possession of said road with all its appurtenances, and manage the same as fully as a board of directors of said company for the time being, may appoint the requisite officers and agents, and discharge the same, may fix the rate of fare and tolls, subject to the restrictions of the charter of said company, and may demand and receive the same with the right to prosecute and defend suits in the name of said company, and may do all things which said company itself, or the directors thereof, might or could lawfully do, and after paying the running expenses, said city may apply sufficient of the earnings of said road to keep it and its buildings and equipment 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 said interest, coupons, and scrip or bond as aforesaid, and government tax; and whenever said interest, and all dishonored coupons, scrip or bonds, secured by said mortgage referred to in this act, 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

Powers of city in  
such manage-  
ment.

Earnings, how  
applied.

When to relin-  
quish control of  
road.

Proviso.

Officers and  
agents liable only  
for malfeasance  
and fraud.

of said road, to pay any damages that may arise in the management thereof, for which said city shall be liable in law to third parties; and the delivery back to said company 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.

Delivery back of property to company, not to discharge lien thereon, nor prevent retaking of possession of road.

SECT. 10. If the said company shall after notice of possession as aforesaid, neglect to choose directors thereof, or 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 who shall, upon their acceptance of such offices, be subject to all the duties and liabilities thereof.

City, after notice of possession, may appoint officers.

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 road, its franchise, and all its appendages, and all real and personal property of said company, which lien shall have preference and be prior to all other liens and incumbrances whatever, on all of said road, wherever the same is now, or may hereafter be located, and on said franchise, and on all other property real and personal of said company, 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, injunctions or decrees of the supreme judicial court in 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 and franchise, &c.

How enforced, &c.

SECT. 12. The city shall appoint three of the directors of the said railroad company 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 directors. But the right to choose such directors shall cease when the loan contemplated is extinguished.

Directors, city authorized to appoint.

Powers and compensation of.

Directors, right to choose, when extinguished.

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 of the city council, present

Act, when to take effect, and acceptance of.



CHAP. 492.

and voting, shall submit the same to a vote of the legal voters 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 two years from the approval of this act said city shall accept said act by such concurrent vote of said city council and of said legal voters as aforesaid, then said act shall be in force thereafter, and be binding upon said city according to its true tenor and effect, but not otherwise. Said ward meetings shall be called, notified, held, returns made, declared and recorded, agreeably to the provisions of the city charter of said city for calling and holding ward meetings for the choice of city officers, and returns thereof.

Ward meetings,  
how called,  
notified, &c.

SECT. 14. This act shall take effect when approved.

Approved March 19, 1870.

## Chapter 492.

An act to incorporate the Ship Pond Stream Navigation Company.

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

Corporators.

SECT. 1. William H. Smith, Joseph L. Smith, George M. Weston, Dudley F. Leavitt, Eben S. Coe, Abraham Sanborn, George K. Jewett, Jeremiah Fenno, George R. Smith, David Dole, Hiram H. Fogg, their associates, successors and assigns, are hereby constituted a body politic and corporate by the name of the Ship Pond Stream Navigation Company, with all the privileges, powers and liabilities of similar corporations.

Name.

Powers and liabilities.

Navigation of Ship Pond stream, improvement of, authorized.

SECT. 2. Said company are authorized to improve the navigation of Ship Pond stream in Piscataquis county, by deepening the channel, removing obstructions, erecting piers and dams and making locks for the purpose of boat navigation, and for that purpose to do whatever may be necessary in and upon said waters and the bed, shores and banks of same to accomplish said object; *provided* all the improvements set forth in this act are completed within two years from the first day of January, eighteen hundred and seventy.

Capital stock.

SECT. 3. The capital stock of said company shall be ten thousand dollars.

Tolls granted.

SECT. 4. Upon all cargoes and merchandise transported in boats on and over said waters the said company may receive such tolls as the legislature may hereafter grant and authorize.

SECT. 5. Said company shall not charge tolls on logs driven on said stream, nor obstruct by their works the driving of logs on the same.