

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTIETH LEGISLATURE,

OF THE

STATE OF MAINE.

1871.

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1871.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1871.

Chapter 676.

CHAP. 676.

An act to enable the city of Bangor to aid the Bangor and Piscataquis Railroad Company in the extended construction of its 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 make a further loan of its credit, in scrip, to be hereafter issued to the Bangor and Piscataquis Railroad Company, to aid in the extended construction of its railroad on a line hereafter to be located and built under its charter as at present revised and amended, from some point on the line of its road at or near its present terminus, in Foxcroft, westerly or northerly towards Moosehead lake, to an amount not exceeding the rate of fifteen thousand dollars per mile, upon its compliance with the following terms and conditions :

City of Bangor authorized to loan its credit.

Amount of loan.

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall, within three years of its approval, locate the line of its railroad, and shall within six years from its approval complete said road from some point in the line of its road at or near its present terminus in Foxcroft to some point at or near Moosehead lake, to the satisfaction of the mayor and aldermen of said city of Bangor, as a first-class railroad in good running order, so that cars may pass over the same the whole distance from or near said terminus, and shall perform the other conditions hereinafter named, then said company shall be entitled to receive the full amount of scrip of fifteen thousand dollars per mile, and at that rate for such part of said line of said railroad as shall from time to time be so completed as hereinafter provided.

Upon acceptance of act, company shall locate road.

SECT. 3. When said company shall construct to the satisfaction of the mayor and aldermen of said city, five miles of its said railroad, from said first named point in its said line westerly or northerly towards said lake so far that the track shall be graded and the rails laid so that cars may run safely over the same, they shall certify that fact to the treasurer of said city, and said company shall be entitled to receive from him twelve thousand dollars of said scrip, per mile, and so on and in like manner and at that rate for every additional five miles or fractional part thereof so constructed, till the whole line from said first named point to some point at or near said lake shall be so constructed ; and when said company shall completely finish, to the satisfaction of said mayor and aldermen, five miles of its said road on said line westerly or northerly towards said lake, from said first named point, they shall certify that fact to the treasurer of said city, and said company shall be entitled to receive from him three thousand dollars of said scrip, per mile, and such other sums, if any, as said com-

When 5 miles of road has been completed, company shall be entitled to receive \$12,000 of scrip per mile.

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pany may be entitled to receive at that time, to make up said fifteen thousand dollars per mile, and at that rate and in like manner for every additional five miles or fractional part thereof till the whole line between said points is completely finished ; *provided however*, the whole amount of said scrip issued and delivered to said company under this act shall not exceed the rate of fifteen thousand dollars per mile of such completely finished railroad as a first-class railroad. All of said scrip authorized to be issued by this act shall be signed by the city treasurer and countersigned by the mayor of said city, and shall bear date of the first issue and delivery thereof, and be payable in Boston to the holder thereof, and be of such denominations as said directors may determine, with coupons for interest attached at the rate of seven per cent. per annum, payable semi-annually, on the first day of April and October, in each year, free from government internal revenue income tax ; the principal and interest payable in the lawful money of the United States, and the principal payable the first day of April, in the year of our Lord one thousand eight hundred and ninety-nine.

Proviso.

Whole amount of scrip issued to company not to exceed \$15,000 per mile.

Scrip payable in Boston.

Rate of interest.

Principal and interest payable in lawful money.

Concurrent with each issue and delivery of scrip, the president and directors shall execute and deliver to treasurer of city, bond of company for double of amount of scrip.

Bond to be payable in Bangor or Boston.

Conditions.

President and directors of company, duties of, in case of issuing scrip.

SECT. 4. Concurrent with each issue and delivery of said city scrip, 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, for said city, 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 the city of Bangor, and be conditioned that said company will duly pay the interest on such scrip of said city, as shall be issued and delivered at the time of the date of said bond, free of said tax ; and the principal thereof, according to the tenor of said scrip and coupons, and in all respects will hold and save harmless said city on account of the issue of the same. The president and directors of said company shall also in case of the issuing of the scrip of said city, as hereinbefore provided, and simultaneously therewith make, execute and deliver, or cause to be made, executed and delivered, to the said city treasurer, the scrip of said company, payable to the holder thereof, at the same place and time, and for the same denominations and amount as the scrip then issued by said treasurer to said company, with like coupons for interest attached ; which said 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 and Boston, 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. CHAP. 676.

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 each issue and delivery of said city scrip, and upon the delivery of each of said bonds to said city treasurer, to secure the payment of such city scrip as shall be issued and delivered to said company at that time, to execute and deliver or cause to be executed and delivered to said city treasurer for said city, a mortgage of its said railroad from its terminus in Oldtown northward and westward into Piscataquis county, to its terminus in Foxcroft, and thence westerly or northerly to some point at or near Moosehead lake, whenever the same may be located and built under its charter as now revived and amended, and of all the property of said company, real and personal, which said company then has or may thereafter acquire, together with all franchises of said company without prior incumbrance, excepting, however, all incumbrances to said city, prior to the date of said mortgage, which mortgage shall contain apt and sufficient terms to secure the fulfillment of the conditions of said bond, and be in due and legal form and executed by such officer of said company as said directors may direct by their vote; and said mortgage so executed and delivered and recorded in the registry of deeds in 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 and of all the property of said company, real and personal, then owned by said company or subsequently to be acquired by it, wherever the same may be found or situated, and also the franchises of said company, with all its present amendments and additions, subject only to the conditions and exceptions contained in said mortgage, and to the prior rights, liens and interests of said city, under and by virtue of mortgages given by said company to said city, anterior to the date of the mortgage then to be given, and under and by virtue of this and two previous loan bills, one approved February twelve, eighteen hundred and sixty-eight, and the other February eleven, eighteen hundred and sixty-nine.

Mortgage of
railroad, &c.

SECT. 6. For the purpose of foreclosing either of said mortgages for conditions broken, it shall be sufficient for 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 the first publication as aforesaid, if the condi-

Foreclosure of
mortgage.

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tions 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. Said foreclosure shall not be considered as the foreclosure of any other mortgage now given by said company to said city, nor shall any of the proceedings or remedies under and by virtue of this act in any way affect the rights and remedies of said city or of said company, under and by virtue of other mortgages, and under and by virtue of said two acts or any other rights or claims which said city has or may have against said company.

Interest and tax,
neglect to pay,
effect.

SECT. 7. If the directors of said company shall at any time neglect or omit to pay the interest and said tax, which may become and as it shall become due upon any portion of the 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 a majority of the 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 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.

Moneys received,
application of.

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 said 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 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

Money received
by treasurer of
company shall be
paid to city treas-
urer in certain
cases.

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 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.

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, in vacation or in term time, with or without notice, and the court shall have jurisdiction of the subject matter of such suits, 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.

Mayor and aldermen may cause suit in equity to be instituted.

Judge may issue writ of injunction.

Jurisdiction of court.

SECT. 10. If the said company shall at any time neglect or omit to pay the interest which may become due and as it shall 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 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 said interest, coupons, scrip or bonds as aforesaid, and government tax; and whenever said interest and all dishon-

City of Bangor may take possession of road in case of neglect to pay principal and interest.
Proceedings.

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ored coupons, scrip or bonds, secured by said mortgage referred to in the 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 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 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, or any failure to hold and save harmless said city from all damages claimed by third persons.

Neglect to choose directors.

SECT. 11. 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 they shall upon their acceptance of such offices be subject to all the duties and liabilities thereof.

Additional protection.

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 road, its franchise and all its appendages, and all real and personal property of said company owned and held by it at the date of the first mortgage hereinbefore authorized to be given, and all the property, real and personal, which said company shall thereafter acquire. Said lien shall continue till all the city scrip hereinbefore authorized to be issued shall be paid and cancelled, and all other liabilities and indebtedness not secured by prior mortgages on said road and property, which lien shall have preference and be paid prior to all other liens and incumbrances whatever, except as hereinbefore excepted in behalf of said city, on all of said road wherever the same is now or may hereafter be located, and on said franchise, and on all 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 suit or suits in equity, which power is hereby specially conferred on said court; and it is hereby provided that the said

Lien on road, its franchises and appendages.

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. 13. The city may appoint under this act two directors of said company, who shall be annually chosen by the city council, in joint ballot before the annual meeting of said company for the choice of said officers, who shall have the same authority in transacting the business of said company, and who shall be entitled to like compensation from said company as any other director. But the right to choose such director shall cease when the loan contemplated shall be extinguished.

City may appoint two directors.

SECT. 14. 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 and voting, shall submit the same to a vote of the legal voters of the city in ward meetings, 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, 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 at such time or times as the mayor and aldermen may appoint, and be notified and warned, 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.

Act not to take effect until accepted by legal voters of city.

Ward meetings, how called.

SECT. 15. This act shall take effect when approved.

Approved February 22, 1871.

Chapter 677.

An act to prevent the throwing of slabs and other refuse material into the river St. Croix and its tributaries.

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

SECT. 1. No person or persons shall cast, throw, place or put into the St. Croix river, or into any of its tributaries, any slabs, board or lath edgings, bark, grindings of edgings, wood or lumber, refuse wood or timber, arising from the manufacture of lumber, or waste, including sawdust from shingle manufacturing; nor shall any person or persons place, pile or deposit on the bank of said

Throwing slabs and refuse lumber into St. Croix river and tributaries forbidden.