

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ACTS AND RESOLVES

OF THE

FIFTY-SIXTH LEGISLATURE

OF THE

STATE OF MAINE.

1877.

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

AUGUSTA :

SPRAGUE, OWEN & NASH, PRINTERS TO THE STATE.

1877.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1877.

city government shall be effected on the second Monday of CHAP. 394
 March, in the manner now provided by law.

SECT. 3. The city council shall choose all necessary sub- Subordinate
 officers, when to
 be chosen.
 ordinate officers on the second Monday of March, in the
 manner now provided by law.

SECT. 4. This act shall take effect when approved, and Secretary of state
 to forward copy.
 the secretary of state shall forward a copy thereof to the
 clerk of the city of Ellsworth.

Approved February 9, 1877.

Chapter 394.

An act to enable the city of Bangor to aid the Bangor and Piscataquis Railroad
 Company in the construction of its railroad from some point in Bangor, to some
 point in the line of its present road.

*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 City of Bangor
 authorized to aid
 in construction of
 new line of Bang-
 or and Piscata-
 quis R. R. Co.
 a further loan of its credit, in scrip, to be hereafter issued to
 the Bangor and Piscataquis Railroad Company, to aid in the
 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 in Oldtown, or between Oldtown and some
 point in Foxcroft on the line of its present location, to some
 point at tide water in the city of Bangor, north of the south
 line of said city, to an amount not exceeding three hundred —amount.
 thousand dollars, upon its compliance with the following
 terms and conditions :

SECT. 2. If this act shall be accepted, as hereinafter pro- Terms and condi-
 tions.
 vided, 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 a railroad from some point
 at tide water in the city of Bangor to some point in the line
 of its road in Oldtown, or between Oldtown and some point in
 Foxcroft, 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 in Bangor to some point in said
 Oldtown, or between said Oldtown and some point in Fox-
 croft in the line of its present road, and shall perform the

CHAP. 394

other conditions hereinafter named, then said company shall be entitled to receive the full amount of scrip of three hundred thousand dollars. Said scrip to be delivered, from time to time, as said road shall be so completed, as hereinafter provided.

When scrip shall be delivered.

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 Bangor towards its said connection with its present road, they shall certify that fact to the treasurer of said city, and said company shall be entitled to receive from him, six 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 its said point of connection with its present road, shall be so constructed; and when said company shall completely finish, to the satisfaction of said mayor and aldermen, the whole of its said road as a first-class railroad, 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 so much of said scrip, per mile, as said company may be entitled to receive at that time, not exceeding said sum of three hundred thousand dollars. 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 six per centum per annum, payable semi-annually, on the first day of April and October, in each year; 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 nine hundred and seven.

—by whom signed.

—where and to whom payable.

Bond of company to be executed and delivered to treasurer of Bangor.

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

—conditions.

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, 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.

Scrip of company to be issued to city treasurer.

—to be held by city as collateral security.

—may be sold.

—proceeds to be endorsed on bond.

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 Blanchard, and thence westerly or northerly to some point at or near Moosehead lake, and also from said point in Bangor to said point of connection with its present road, wherever 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 encumbrance, excepting, however, all encumbrances to said city, prior to the date of said

President and directors shall execute and deliver mortgage to city treasurer.

Prior encumbrances of the city excepted.

CHAP. 394

Extent of mortgage.

—subject to prior rights, liens and interests of city.

Foreclosure, how effected.

—when complete.

—not to affect other rights or claims of said city.

mortgage, which mortgage shall contain apt and sufficient terms to secure the fulfilment of the conditions of said bond, and all other bonds hitherto given by said company to said city, for scrip previously issued by said city to said company, 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 all previous loan bills.

SECT. 6. For the purpose of foreclosing either of said mortgages 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 the first publication, as aforesaid, if the conditions 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 all other loan bills or any other rights or claims which said city has or may have against said company.

SECT. 7. If the directors of said company shall, at any time, neglect or omit to pay the interest 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 bonds, 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 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.

If conditions of bond are not complied with, city may take possession of railroad, property and franchise.

—manner of proceeding.

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 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 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

Moneys received after notice, to be held for benefit of the city.

—to be paid to city treasurer.

—when to be paid and how applied.

CHAP. 394

Liability for
contrary appli-
cation.

Suits in equity
may be instituted
in the name of
the city, in S. J.
court.

Judge may issue
writ of injunction.

If provisions of
bond are not com-
plied with, city
may take posses-
sion of and man-
age road.

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, 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.

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 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 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 and scrip, as aforesaid; and whenever said interest and all dishonored coupons and scrip 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 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.

When shall relinquish control to company.

Proviso.

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.

If the company neglect or refuse to choose officers, the aldermen of the city shall appoint a board of directors.

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 can-

Additional protection.

—lien on road, franchise and all property.

—how long to continue.

CHAP. 394

celled; 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 encumbrances 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 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 suit or suits 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.

How enforced.

Proviso.

Directors to be chosen annually.

—authority and compensation.

When to take effect.

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.

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 for and against said act at such meetings, adopt the same. But if within three 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 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. CHAP. 395

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

Approved February 9, 1877.

Chapter 395.

An act to reduce the valuation of township number eighteen, Middle Division, county of Washington.

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

SECT. 1. That the state valuation of township number eighteen, middle division, Washington county, be and is hereby reduced in the sum of ten thousand dollars, so that the valuation of said township shall stand for future state and county assessments at fifteen thousand dollars.

Valuation of township reduced

SECT. 2. This act shall take effect when approved.

Approved February 9, 1877.

Chapter 396.

An act to legalize the acts of John B. Trafton, as Justice of the Peace and Quorum.

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

SECT. 1. The acts of John B. Trafton, of Fort Fairfield, in the county of Aroostook, as a justice of the peace and quorum, within and for the county of Aroostook, from the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and seventy-six, to the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and seventy-seven, are hereby ratified and made legal and valid.

John B. Trafton,
acts of, made
valid.

SECT. 2. This act shall take effect when approved.

Approved February 9, 1877.