

MAINE STATE LEGISLATURE

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1863.

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1863.

FORTY-SECOND LEGISLATURE.

SENATE.

No. 17.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-THREE.

AN ACT concerning railroad mortgages.

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

SECTION 1. Whenever trustees of any railroad corporation, who have taken, or shall hereafter take possession, by virtue of a mortgage or decree of court, of any railroad franchise and property, mortgaged to secure the payment of its bonds, for condition broken, or for purposes of foreclosing such mortgage, it shall be the duty of such trustees upon the request of the holders of one-fifth part in amount of the bonds so secured, to notify a meeting of all the holders or owners of such bonds, pursuant to the provisions of section fifty-four of chapter fifty-one of the revised statutes.

12 And at such meeting it shall be competent for a ma-
13 jority in interest of the holders of the bonds there
14 represented to instruct such trustees to proceed to
15 effect a sale of the mortgaged premises, for the benefit
16 of all the holders of bonds so secured, in lieu of pro-
17 ceeding to foreclose such mortgage, subject to any
18 prior legal incumbrance upon the franchise and prop-
19 erty so mortgaged ; and upon the completion of such
20 sale, after deducting the reasonable expenses of said
21 trustees in the previous management of such property
22 and in conducting said sale, to pay over to the holders
23 of such bonds who shall present the same, their pro-
24 portional parts, respectively, of such proceeds. The
25 trustees shall continue to hold the bonds uncanceled
26 upon which payment shall be so made, for the period
27 of three years from the period when possession of the
28 mortgaged premises was so taken by the trustees, and
29 during such time it shall be competent for said corpo-
30 ration, or its legal assignees, to redeem the same, on
31 payment of the sum for which such sale was made, and
32 interest thereon from the date of the completion of
33 such sale ; and in addition thereto such compensation
34 as may be reasonable for the services of said trustees
35 subsequently to such sale. But the party redeeming
36 from such sale shall also pay within said time to the

37 purchaser at such sale, or his assigns, all such reason-
38 able expenditures as shall have been made by him or
39 them in completing, repairing and equipping said rail-
40 road, and in purchases of property necessary therefor,
41 deducting therefrom the net income of said railroad,
42 during the time it may have been in the possession of
43 such purchaser or his assigns; and in case said re-
44 demption shall not be so made, within said period of
45 three years, said bonds, if paid in full, shall be can-
46 celled and returned to said corporation by said trustees;
47 and if not so paid in full, said railroad property so sold
48 shall be thereafter absolutely discharged of all liability
49 for further payment of said bonds, and such fact, to-
50 gether with the amount so paid on each bond shall be
51 endorsed thereon by said trustees, or some one of them
52 in perpetual evidence thereof; and thereafter said
53 bonds shall be returned to the owners of the same,
54 respectively, when requested. And if such sale shall
55 produce an amount exceeding the sums herein before
56 specified, the same shall be paid over to said corpora-
57 tion, or its assigns, in the order of the outstanding
58 titles thereto.

SECT. 2. The purchaser or his assigns of the fran-
2 chise and property so sold, shall have, succeed to an
3 possess all the powers, privileges and immunities

4 named in chapter one hundred and ninety-three, passed
5 March twenty, eighteen hundred and sixty, entitled
6 “ An act additional to chapter fifty-one of the revised
7 statutes relating to railroads,” and may organize a
8 new corporation as and in the manner provided in said
9 last named act.

SECT. 3. It shall be the duty of the trustees to make
2 and execute all necessary deeds of conveyance for car-
3 rying into effect the sale herein provided, and to do
4 and perform all acts necessary to the complete consum-
5 mation of the rights of all parties thereto or therein
6 interested according to the meaning of this act. And
7 in case any disagreement shall arise between any such
8 parties respecting the amount due upon any such
9 bonds or on account of charges or expenses incurred
10 by such trustees or purchasers, the redeeming party
11 who shall have paid to either of said parties for said
12 purposes of redemption the sum or sums demanded,
13 shall have the right by bill in equity to have such pay-
14 ments, expenses and charges revised, and if found
15 unreasonable or excessive in the judgment of the court,
16 the complaining party shall have judgment for a return
17 of such excessive payment, with twelve per cent. per
18 annum, interest thereon from the date of such pay-
19 ment, together with his costs ; otherwise the respon-

20 dents shall respectively have judgment for their cost
21 in such proceedings.

SECT. 4. The sale so directed to be made by the
2 trustees, shall be proceeded in as soon as may be by
3 first advertising the franchise and property so to be
4 sold, subject to incumbrances if any, for sale by public
5 auction in the principal depots of such railroad, at
6 least twice in each week for two successive months in
7 one or more of the daily newspapers published in each
8 of the cities of Boston, Portland and Bangor, describ-
9 ing the time, place and terms of sale, as well as a gen-
10 eral description of the property to be sold ; and in case
11 said trustees shall deem it expedient for the interest
12 of all parties to adjourn such sale, it shall be lawful
13 for them at the time so advertised to make one adjourn-
14 ment of the sale for a period not exceeding three
15 weeks, giving the earliest practicable notice thereof,
16 and until such adjournment, in each of the papers so
17 previously advertising the original notice of sale. And
18 the concurrence of a majority of such trustees in the
19 execution of the powers and duties prescribed in this
20 act shall be valid and no trustee shall be responsible
21 for any act of his associates except he consents to the
22 same, and only for his wilful negligence or misconduct.

SECT. 5. Any party having a right to redeem as

2 herein provided, at any time within three years from
3 the date of the possession of the premises so mortgaged
4 by said trustees, may demand a true statement in
5 writing, of said trustees of the amount due and payable
6 to them for said purpose of redemption, and in like
7 manner may demand a true statement in writing of the
8 purchasers of said mortgaged premises or his assigns,
9 of the amount due and payable to him or them for said
10 purpose ; and if the party so requested to furnish a
11 statement shall unreasonably refuse or neglect to ren-
12 der such statement in writing, or in any other way by
13 his or their default prevents the demandant from per-
14 forming or tendering performance 'of the conditions
15 required to perfect such redemption within the time
16 limited as aforesaid, he may within said time bring his
17 bill in equity for the benefit of himself and all other
18 persons interested with him in the redemption, for said
19 redemption, and therein offer to pay the sum found to
20 be equitably due, or to perform any other condition as
21 the case may require ; and such offer shall have the
22 same force as a tender of payment or performance be-
23 fore the commencement of the suit ; and the bill shall
24 be sustained without such tender, and thereupon he
25 shall be entitled to judgment for redemption and costs.
26 And the court shall have and exercise all needful pow-

RAILROAD MORTGAGES.

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27 ers in such cases to decree such proceedings, convey-
28 ances and releases as shall perfect the titles of the
29 respective parties in and to the premises as justice and
30 equity may require.

STATE OF MAINE.

IN SENATE, March 19, 1863.

Introduced by Mr. WOODS of Kennebec, laid on the table and
350 copies ordered to be printed for the use of the Legislature.

EZRA C. BRETT, *Secretary.*