

MAINE STATE LEGISLATURE

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FIFTY-SIXTH LEGISLATURE.

HOUSE.

No. 97.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND
SEVENTY-SEVEN.

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 :

SECTION 1. The city of Bangor is hereby authorized
2 to make a further loan of its credit, in scrip to be here-
3 after issued to the Bangor and Piscataquis Railroad
4 Company, to aid in the construction of its railroad on
5 a line hereafter to be located and built under its char-
6 ter as at present revised and amended, from some point
7 in Oldtown, or between Oldtown and some point in
8 Foxcroft on the line of its present location to some
9 point at tide water in the city of Bangor, north of the

10 south line of said city, to an amount not exceeding
11 three hundred thousand dollars, upon its compliance
12 with the following terms and conditions.

SECT. 2. If this act shall be accepted as hereinafter
2 provided, and said company shall, within three years
3 of its approval, locate the line of its railroad, and
4 shall within six years from its approval complete a
5 railroad from some point at tide water in the city of
6 Bangor to some point in the line of its road in Old-
7 town, or between Oldtown and some point in Foxcroft,
8 to the satisfaction of the mayor and aldermen of said
9 city of Bangor, as a first class railroad in good running
10 order, so that cars may pass over the same the whole
11 distance from or near said terminus in Bangor to some
12 point in said Oldtown, or between said Oldtown and
13 some point in Foxcroft in the line of its present road,
14 and shall perform the other conditions hereinafter
15 named, then said company shall be entitled to receive
16 the full amount of scrip of three hundred thousand
17 dollars. Said scrip to be delivered from time to time
18 as said road shall be so completed as hereinafter pro-
19 vided.

SECT. 3. When said company shall construct to the
2 satisfaction of the mayor and aldermen of said city,
3 five miles of its said railroad from said first named
4 point in Bangor towards its said connection with its

5 present road, they shall certify that fact to the treas-
6 urer of said city, and said company shall be entitled
7 to receive from him six thousand dollars of said scrip,
8 per mile, and so on and in like manner and at that
9 rate for every additional five miles or fractional part
10 thereof so constructed, till the whole line from said
11 first named point to its said point of connection with
12 its present road, shall be so constructed; and when
13 said company shall completely finish, to the satisfaction
14 of said mayor and aldermen, the whole of its said road
15 as a first class railroad, from said first named point,
16 they shall certify that fact to the treasurer of said city,
17 and said company shall be entitled to receive from
18 him so much of said scrip, per mile, as said company
19 may be entitled to receive at that time, not exceeding
20 said sum of three hundred thousand dollars. All of
21 said scrip authorized to be issued by this act shall be
22 signed by the city treasurer and countersigned by the
23 mayor of said city, and shall bear date of the first
24 issue and delivery thereof, and be payable in Boston
25 to the holder thereof, and be of such denominations as
26 said directors may determine, with coupons for interest
27 attached at the rate of six per cent. per annum, pay-
28 able semi-annually, on the first day of April and Oc-
29 tober, in each year; the principal and interest payable
30 in the lawful money of the United States, and the

31 principal payable the first day of April, in the year of
32 our Lord one thousand nine hundred and seven.

SECT. 4. Concurrent with each issue and delivery
2 of said city scrip, the president and directors of said
3 company in their official capacity shall execute and
4 deliver, or cause to be executed and delivered, to the
5 treasurer of said city, for said city, the bond of said
6 company, the penal sum in said bond to be double the
7 amount of the scrip authorized to be issued at that
8 time. Said bond shall be made payable to the city of
9 Bangor, and be conditioned that said company will
10 duly pay the interest on such scrip of said city, as
11 shall be issued and delivered at the time of the date
12 of said bond ; and the principal thereof, according to
13 the tenor of said scrip and coupons, and in all respects
14 will hold and save harmless said city on account of
15 the issue of the same. The president and directors of
16 said company shall also in case of the issuing of the
17 scrip of said city, as hereinbefore provided, and simul-
18 taneously therewith make, execute, and deliver or
19 cause to be made, executed and delivered, to the said
20 city treasurer, the scrip of said company, payable to
21 the holder thereof, at the same place and time, and
22 for the same denominations and amount as the scrip
23 then issued by said treasurer to said company, with
24 like coupons for interest attached ; which said scrip

25 shall be held by said city as collateral security for the
26 fulfilment of the conditions of said bond ; and in de-
27 fault of any one of said conditions said city may, from
28 time to time, sell said scrip, or any portion thereof, by
29 public auction, or auctions, in the cities of Bangor and
30 Boston, or either of them, after sixty days' notice in
31 writing to the president or one of the directors, or any
32 three of the stockholders of said company, naming
33 therein the time and place of sale ; the net proceeds
34 of all such sales shall be endorsed on said bond.

SECT. 5. The president and directors of said com-
2 pany are hereby authorized, and it shall be their duty,
3 in their official capacity, upon the receipt of each issue
4 and delivery of said city scrip, and upon the delivery
5 of each of said bonds to said city treasurer, to secure
6 the payment of such city scrip as shall be issued and
7 delivered to said company at that time, to execute
8 and deliver or cause to be executed and delivered to
9 said city treasurer for said city, a mortgage of its
10 railroad from its terminus in Oldtown northward and
11 westward into Piscataquis county, to its terminus in
12 Blanchard, and thence westerly or northerly to some
13 point at or near Moosehead lake, and also from some
14 point in Bangor to said point of connection with its
15 present road, wherever the same may be located and

16 built under its charter as now revived and amended,
17 and of all the property of said company, real and per-
18 sonal, which said company then has or may thereafter
19 acquire, together with all franchises of said company
20 without prior encumbrance, excepting, however, all
21 encumbrances to said city, prior to the date of said
22 mortgage, which mortgage shall contain apt and suffi-
23 cient terms to secure the fulfilment of the conditions
24 of said bond, and all other bonds hitherto given by
25 said company to said city for scrip previously issued
26 by said city to said company, and be in due and legal
27 form and executed by such officer of said company as
28 said directors may direct by their vote; and said
29 mortgage so executed and delivered and recorded in
30 the registry of deeds in the county of Penobscot shall
31 to all intents and purposes, be, and the same is hereby
32 declared to be, a full and complete transfer of said
33 railroad and of all the property of said company, real
34 and personal, then owned by said company or subse-
35 quently to be acquired by it, wherever the same may
36 be found or situated, and also the franchises of said
37 company, with all its present amendments and addi-
38 tions, subject only to the conditions and exceptions
39 contained in said mortgage, and to the prior rights,
40 liens and interests of said city, under and by virtue of

41 mortgages given by said company to said city, anterior
42 to the date of the mortgage then to be given, and
43 under and by virtue of this and all previous loan bills.

SECT. 6. For the purpose of foreclosing either of
2 said mortgages for conditions broken, it shall be suffi-
3 cient for the said mayor and aldermen to give notice
4 according to the mode prescribed in the revised statutes
5 for the foreclosure of mortgages by publication of no-
6 tice thereof, which may be published in a newspaper
7 printed in Bangor, and a record thereof made within
8 thirty days after the date of the last publication, in
9 the registry of deeds for the county of Penobscot,
10 which publication and record shall be sufficient for the
11 purpose, of such foreclosure. Upon the expiration of
12 three years from and after the first publication as
13 aforesaid, if the conditions shall not within that time
14 have been fulfilled, the foreclosure shall be complete,
15 and shall make the title to said road and to all the said
16 property, real and personal, and said franchise, abso-
17 lute in said city. Said foreclosure shall not be con-
18 sidered as the foreclosure of any other mortgage now
19 given by said company to said city, nor shall any of
20 the proceedings or remedies under and by virtue of
21 this act in any way affect the rights and remedies of
22 said city or of said company, under and by virtue of

23 other mortgages, and under and by virtue of all other
24 loan bills or any other rights or claims which said city
25 has or may have against said company.

SECT. 7. If the directors of said company shall at
2 any time neglect or omit to pay the interest which
3 may become and as it shall become due upon any por-
4 tion of the scrip issued and delivered under the pro-
5 visions of this act, or to pay the principal as it becomes
6 due, or to comply with any of the conditions of said
7 bonds, the city of Bangor may take possession in the
8 manner hereinafter provided, of the whole of said rail-
9 road, and of all the property real and personal, of said
10 company, and of the franchise thereof, and may hold
11 the same, and apply the income thereof to make up
12 and supply such deficiencies that may occur while the
13 same are so held, until all deficiencies shall be fully
14 made up and discharged. A written notice signed by
15 the mayor and a majority of the aldermen, and served
16 upon the president or treasurer or any director of said
17 company, or if there are none such, upon any stock-
18 holder of said company, stating that the city thereby
19 takes actual possession of the whole line of the rail-
20 road, and of the property and franchise of the com-
21 pany, shall be a sufficient actual possession thereof,
22 and shall be a legal transfer of the same, for the pur-
23 poses aforesaid, to the city, and shall enable the city

24 to hold the same against any other claims thereon, ex-
25 cept the claims of said city hereinbefore mentioned,
26 until such purposes have been fully accomplished.

SECT. 8. All moneys received by or for the said
2 railroad company, after notice as aforesaid, from any
3 source whatever, and by whomsoever the same may be
4 received, shall belong to and be held for the use and
5 benefit of the said city in manner, and for the pur-
6 poses herein provided, and shall, after notice given to
7 persons receiving the same, respectively be by them
8 paid to the city treasurer, which payment shall be an
9 effectual discharge from all claims of said company
10 therefor; but if any person without such notice shall
11 make payment of moneys so received to the treasurer
12 of said company, such payment shall be a discharge
13 of all claims of the city therefor, against such person.
14 All moneys received by the treasurer of said company,
15 after such notice, or in his hands at the time such
16 notice may be given, shall be by him paid to the city
17 treasurer, after deducting the amount expended or
18 actually due for the running expenses of the road, for
19 the services of the officers of the company, and for
20 repairs necessary for conducting the ordinary opera-
21 tions of the road. Such payments to the city treasurer
22 shall be made at the end of every calendar month, and
23 shall be by him applied to the payment of all the

24 interest and principal due as aforesaid, and any person
25 who shall pay or apply any moneys received as afore-
26 said in any manner contrary to the foregoing provis-
27 ions, shall be liable therefor, and the same may be
28 recovered in an action for money had and received in
29 the name of the city treasurer, whose duty it shall be
30 to sue for the same, to be by him held and applied as
31 hereinafter required.

SECT. 9. For the purpose of effecting the objects
2 prescribed in the two preceding sections, the mayor
3 and aldermen may cause a suit in equity to be insti-
4 tuted in the name of the city of Bangor, in the
5 supreme judicial court in the county of Penobscot,
6 against said company, directors, or any other person,
7 as may be necessary for the purpose of discovery,
8 injunction, account, or other relief, under the provis-
9 ions of this act; and any judge of the court may
10 issue a writ of injunction or any other suitable process,
11 in vacation, or in term time, with or without notice,
12 and the court shall have jurisdiction of the subject
13 matter of such suits, and shall have such proceedings
14 and make such orders and decrees, as may be within
15 the power and according to the course of proceedings
16 of courts of equity, as the necessities of the case may
17 require.

SECT. 10. If the said company shall at any time

2 neglect or omit to pay the interest which may become
3 due and as it shall become due upon any portion of
4 the scrip issued and delivered under the provisions of
5 this act, or to pay the principal thereof as it shall be-
6 come due, or to comply with any of the provisions of
7 said bonds, then said city of Bangor may take actual
8 possession of said road, with all its appurtenances, and
9 manage the same as fully as a board of directors of
10 said company for the time being, may appoint the
11 requisite officers and agents, and discharge the same,
12 may fix the rate of fare and tolls, subject to the re-
13 strictions of the charter of said company, and may
14 demand and receive the same, with the right to prose-
15 cute and defend suits in the name of said company,
16 and may do all things which said company itself or
17 the directors thereof might or could lawfully do ; and
18 after paying the running expenses said city may apply
19 sufficient of the earnings of said road to keep it and
20 its buildings and equipments in repair, and to prevent
21 any deterioration thereof, and to provide for such new
22 rolling stock as may be necessary, and then to apply
23 the residue of said earnings to the payment of said
24 interest, coupons and scrip, as aforesaid ; and when-
25 ever said interest and all dishonored coupons and scrip
26 secured by said mortgage referred to in this act, shall

27 have been paid, said city shall relinquish the control
28 of said road and deliver any property of said company
29 in its possession to said company or its assigns: *pro-*
30 *vided, however,* said city, its officers or agents, while
31 operating said road under the provisions of this section,
32 shall not be liable, except for malfeasance or fraud,
33 and shall have the right to apply any funds received
34 from the earnings of said road, to pay any damages
35 that may arise in the management thereof, for which
36 said city shall be liable in law to third parties; and
37 the delivery back to said company of any property of
38 said company in its possession, shall be no discharge
39 of its lien thereon, nor prevent said city from again
40 taking possession of said road and property on any
41 future breach of the condition of said bond, or any
42 failure to hold and save harmless said city from all
43 damages claimed by third persons.

SECT. 11. If the said company shall, after notice
2 of possession as aforesaid, neglect to choose directors
3 thereof, or other necessary officers, or none such shall
4 be found, the mayor and aldermen of the city shall
5 appoint a board of directors, consisting of not less than
6 seven persons, or any other necessary officers, and the
7 persons so appointed shall have all the power and au-
8 thority of officers chosen or appointed under the pro-

9 visions of the act establishing said company, and they
10 shall upon acceptance of such offices be subject to all
11 the duties and liabilities thereof.

SECT. 12. As an additional or cumulative protection
2 for said city, all liabilities which by said city may be
3 assumed or incurred under or by virtue of any of the
4 provisions of this act, shall at the time and by force
5 thereof, and for the security and payment of the same,
6 create in favor of said city a lien on the whole of said
7 road, its franchise and all its appendages, and all real
8 and personal property of said company owned and held
9 by it at the date of the first mortgage hereinbefore
10 authorized to be given, and all the property real and
11 personal which said company shall thereafter acquire.
12 Said lien shall continue till all the city scrip hereinbe-
13 fore authorized to be issued shall be paid and cancelled,
14 and all other liabilities and indebtedness not secured
15 by prior mortgages on said road and property, which
16 lien shall have preference and be paid prior to all other
17 liens and encumbrances whatever, except as herein-
18 before excepted in behalf of said city, on all of said
19 road wherever the same is now or may hereafter be
20 located, and on said franchise, and on all other property,
21 real and personal, of said company, and said lien shall
22 be enforced and all the rights and interests of said city
23 shall be protected, when necessary, by suitable and

24 proper judgments, injunctions or decrees of the su-
25 preme judicial court, in a suit or suits in equity, which
26 power is hereby specially conferred on said court ; and
27 it is hereby provided that the said lien provided for in
28 this section shall not be deemed waived or ineffectual
29 by the acceptance on the part of said city of any
30 mortgage or other securities contemplated by the pro-
31 visions of this act or otherwise.

SECT. 13. The city may appoint under this act two
2 directors of said company, who shall be annually
3 chosen by the city council, in joint ballot before the
4 annual meeting of said company for the choice of said
5 officers, who shall have the same authority in transact-
6 ing the business of said company, and who shall be
7 entitled to like compensation from said company as
8 any other director. But the right to choose such direc-
9 tor shall cease when the loan contemplated shall be
10 extinguished.

SECT. 14. This act shall not take effect or be of any
2 force until the city council of said city, by a concu-
3 rent vote of at least two-thirds of the members of
4 each branch of the city council, present and voting,
5 shall submit the same to a vote of the legal voters of
6 the city in ward meetings, and the legal voters of the
7 city in legal ward meetings shall, by a vote of two-
8 thirds of all the votes thrown in the city for and

9 against said act, at such meetings adopt the same.
10 But if within three years from the approval of this act,
11 said city shall accept said act by such concurrent vote
12 of said city council, and of said legal voters as afore-
13 said, then said act shall be in force thereafter, and be
14 binding upon said city according to its true tenor and
15 effect, but not otherwise. Said ward meetings shall
16 be called at such time or times as the mayor and
17 aldermen may appoint, and be notified and warned,
18 held, returns made, declared and recorded, agreeably
19 to the provisions of the city charter of said city for
20 calling and holding ward meetings for the choice of
21 city officers, and returns thereof.

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

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 31, 1877. }

Reported from the Committee on Railroads, by Mr. STRICKLAND of Bangor, and
ordered printed under the Joint Rule.

ORAMANDAL SMITH, *Clerk.*