

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING THE

EXTRA SESSION OF 1853, AND SESSION OF 1854.



Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1854.

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# THIRTY-THIRD LEGISLATURE.

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SENATE.

No. 1.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-FOUR.

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AN ACT to authorize the city of Bangor to aid the construction of the Penobscot and Kennebec Railroad.

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

SECTION 1. The city of Bangor is hereby authorized to loan its credit to the Penobscot and Kennebec Railroad Company, in aid of the construction of their railroad, not exceeding, however, the sum of five hundred thousand dollars, upon their compliance with the following terms and conditions.

SECT. 2. If this act shall be accepted, as hereinafter provided, and said company shall within three years from its approval, produce evidence satisfactory to the mayor and aldermen of said city for the time

5 being, that the sum of five hundred thousand dollars  
6 has been collected from the subscriptions to the stock  
7 of said company, and paid in and actually expended  
8 in the construction of their road and the purchase of  
9 the right of way, then such fact shall be certified by  
10 the mayor and aldermen to the city treasurer, and he  
11 shall forthwith issue to the directors of said company,  
12 for the purpose of completing said road, the scrip of  
13 said city, payable to the holders thereof at the expira-  
14 tion of twenty years from the date thereof, in the sum  
15 of five hundred thousand dollars, with coupons for in-  
16 terest attached, payable semi-annually. *Provided,*  
17 *however,* that the whole amount of said scrip shall not  
18 exceed the said sum of five hundred thousand dollars.  
19 And *provided further,* that said scrip of five hundred  
20 thousand dollars may be sub-divided and issued in lieu  
21 thereof for such sums as the parties may deem  
22 expedient.

SECT. 3. Concurrent with the delivery of said scrip  
2 as aforesaid, the president and directors of said com-  
3 pany, in their official capacity, shall execute and de-  
4 liver to said city treasurer, the bond of said company  
5 in the penal sum of ten hundred thousand dollars,  
6 payable to said city, conditioned that said company

7 will duly pay the interest on said scrip and the princi-  
8 pal thereof, and in all respects hold and save the city  
9 harmless on account of the issue of the same. And  
10 shall also execute and deliver to said treasurer the  
11 scrip of said company payable to the holders thereof  
12 at the same time and for the same amount as the  
13 scrip then issued by said treasurer to said company  
14 with the like coupons attached. Which scrip shall  
15 be held by said city as collateral security for the ful-  
16 fillment of the conditions of said bond, and in default  
17 of any one of said conditions, said city may from time  
18 to time sell said scrip or any portion thereof, at pub-  
19 lic auction or auctions in the cities of Bangor, Boston  
20 or New York, after sixty days notice in writing to the  
21 president, or one of the directors, or three of the  
22 stockholders of said company, naming therein the  
23 time and place of sale, and the net proceeds thereof  
24 shall be endorsed on said bond.

SECT. 4. 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 said  
4 scrip, from said city, and the delivery of their bond  
5 to said city, to secure the payment of the same, to  
6 execute and deliver to said city a mortgage of said

7 railroad, and of all the property of said company, real  
8 and personal, which they then have or may subse-  
9 quently acquire, together with their franchise without  
10 prior incumbrance, which mortgage shall be signed  
11 by the said president in his official capacity, and shall  
12 be executed according to the law of this state, and  
13 shall be in due and legal form, and shall contain apt  
14 and sufficient terms to secure to said city the fulfill-  
15 ment of all the conditions in said bond contained ;  
16 and said mortgage, so executed, and delivered and  
17 recorded in the registry of deeds for the county of  
18 Penobscot, shall, to all intents and purposes be, and  
19 the same is hereby declared to be, a full and com-  
20 plete transfer of said railroad, of all the property of  
21 said company, real and personal, then or subsequently  
22 to be acquired, and of said franchise, subject only to  
23 the conditions therein contained, any law to the con-  
24 trary notwithstanding ; and all the proceedings in the  
25 organization of said company, and choice of direc-  
26 tors, shall be deemed valid and regular.

SECT. 5. For the purpose of foreclosing said mort-  
2 gage, it shall be sufficient for the said mayor and  
3 aldermen to give notice according to the mode pre-  
4 scribed in the fifth section of the one hundred and

5 twenty-fifth chapter of the revised statutes, which  
6 notice may be published in a newspaper printed in  
7 said city of Bangor, and record thereof may be made  
8 within thirty days after the date of the last publica-  
9 tion, in the registry of deeds for the county of Penob-  
10 scot ; which publication and record shall be sufficient  
11 for the purposes of such foreclosure. Upon the  
12 expiration of three years from and after such publi-  
13 cation, if the conditions of said mortgage shall not  
14 within that time have been performed, the foreclosure  
15 shall be complete, and shall make the title to the rail-  
16 road, and to all the property and franchise aforesaid,  
17 absolute in said city.

SECT. 6. If the directors of the company shall at  
2 any time neglect or omit to pay the interest which  
3 may become due upon any portion of the scrip issued  
4 and delivered under the provisions of this act, or to  
5 pay the principal as it shall become due, or to com-  
6 ply with any of the conditions of said bond, the city  
7 of Bangor may take actual possession in the manner  
8 hereinafter provided, of the railroad, of all the  
9 property, real and personal, of the company and of  
10 the franchise thereof, and may hold the same and  
11 apply the income thereof to make up and supply such

12 deficiencies, and all further deficiencies that may  
13 occur, while the same are so held, until such deficien-  
14 cies shall be fully made up and discharged. A writ-  
15 ten notice signed by the mayor and aldermen, and  
16 served upon the president or treasurer, or any direc-  
17 tor of the company, or if there are none such, upon  
18 any stockholder in the company, stating that the city  
19 thereby takes actual possession of the railroad, and  
20 of the property and franchise of the company, shall  
21 be a sufficient actual possession thereof, and shall be  
22 a legal transfer of all the same for the purposes afore-  
23 said to the city, and shall enable the city to hold the  
24 same against any other transfers thereof, and against  
25 any other claims thereon, until such purposes have  
26 been fully accomplished. Such possession shall not  
27 be considered as an entry for foreclosure, under any  
28 mortgage hereinbefore provided, nor shall the rights  
29 of the city or of the company under such mortgage,  
30 be in any manner affected thereby.

SECT. 7. All moneys received by or for the rail-  
2 road company, after notice as aforesaid, from any  
3 source whatever, and by whomsoever the same may  
4 be received, shall belong to and be held for the use  
5 and benefit of the city, in the manner and for the



6 purposes herein provided, and shall, after notice  
7 given to persons receiving the same, respectively, be  
8 by them paid to the city treasurer, which payment  
9 shall be an effectual discharge from all claims of the  
10 company therefor; but if any person, without such  
11 notice, shall make payment of moneys so received,  
12 to the treasurer of the company, such payment shall  
13 be a discharge of all claims of the city therefor. All  
14 moneys received by the treasurer of the 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,  
19 for the salaries of the officers of the company, and  
20 for repairs necessary for conducting the ordinary  
21 operations of the road. Such payments to the city  
22 treasurer shall be made at the end of every calendar  
23 month, and shall be by him applied to the payment  
24 of all the interests and principal due as aforesaid.  
25 And any person who shall pay or apply any moneys  
26 received as aforesaid, in any manner contrary to the  
27 foregoing provisions, shall be liable therefor, and the  
28 same may be recovered in an action for money had  
29 and received, in the name of the city treasurer,

30 whose duty it shall be to sue for the same, to be by  
31 him held and applied as is herein required.

SECT. 8. 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 su-  
5 preme judicial court in the county of Penobscot,  
6 against the railroad company, its directors, or any  
7 other person, as may be necessary, for the purpose of  
8 of discovery, injunction, account or other relief under  
9 the provisions of this act. And any judge of the  
10 court may issue a writ of injunction or any other suit-  
11 able process on any such bill, in vacation or in term  
12 time, with or without notice, and the court shall have  
13 jurisdiction of the subject matter of such bill, and  
14 shall have such proceedings and make such orders  
15 and decrees as may be within the powers and accord-  
16 ing to the course of proceedings of courts of equity,  
17 as the necessities of the case may require.

SECT. 9. If the railroad company shall, after notice  
2 of possession as aforesaid, neglect to choose directors  
3 thereof, or any other necessary officers, or none such  
4 shall be found, the mayor and aldermen of the city  
5 shall appoint a board of directors, consisting of not

6 less than seven persons, or any other necessary offi-  
7 cers, and the persons so appointed shall have all the  
8 power and authority of officers chosen or appointed  
9 under provisions of the act establishing said company,  
10 and, upon their acceptance, such officers shall be  
11 subject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint one of the direct-  
2 ors of said railroad company from among the stock-  
3 holders, who shall be chosen annually by the city  
4 council in joint ballot, before the annual meeting of  
5 said company, for the choice of their officers, who  
6 shall have the same authority in transacting the busi-  
7 ness of said company, and who shall be entitled to  
8 like compensation from the company as any other  
9 director. But the right to choose such director shall  
10 cease when the loan contemplated is extinguished.

SECT. 11. 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 times and by force  
5 thereof and for the security and payments of the  
6 same, create in favor of said city a lien on said rail-  
7 road, its franchise and all of its appendages and on  
8 all the real and personal property of said railroad

9 corporation, which lien shall have the preference and  
10 be prior to all other liens and incumbrances whatever,  
11 and shall be enforced and the rights and interest of  
12 said city protected, when necessary, by suitable and  
13 proper judgments, injunctions or decrees of said  
14 supreme judicial court on a bill or bills in equity,  
15 which power is hereby specially conferred on said  
16 court.

SECT. 12. This act shall not take effect, unless it  
2 shall be accepted by said company, and by a vote of  
3 the inhabitants of said city, voting in ward meetings,  
4 duly called according to law ; and at least two-thirds  
5 of the votes cast at such ward meetings shall be  
6 necessary for the acceptance of this act. The return  
7 of such ward meetings shall be made to the aldermen  
8 of said city, and by them counted and declared, and  
9 said city clerk shall make a record thereof ; but this  
10 act shall take effect from and after its approval by  
11 the governor, so far as to empower the railroad com-  
12 pany and the inhabitants of the city to act upon the  
13 question of accepting the same. The several ward  
14 meetings of the inhabitants for that purpose shall be  
15 called and holden within sixty days after such ap-  
16 proval ; and the same time shall be allowed for its

17 acceptance by the said company, which acceptance  
18 shall be recorded on their books. And if the act  
19 shall be accepted as aforesaid, then after such accept-  
20 ance and record thereof, all the parts of the act shall  
21 take effect, and be in full force.

STATE OF MAINE.

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IN SENATE, Feb. 17, 1854.

This bill (reported by the committee on railroads and bridges) was read once and ordered that 400 copies of the same be printed for the use of the Legislature.

WILLIAM TRAFTON, *Secretary.*