

# 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. 2.

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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 Oldtown and Lincoln Railroad.

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

SECTION 1. The city of Bangor is hereby authorized  
2 to loan its credit to the Oldtown and Lincoln Rail-  
3 road Company, in aid of the construction of their  
4 railroad, not exceeding however the sum of three  
5 hundred and twenty-five thousand dollars, upon their  
6 compliance 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 from its approval, produce evidence satisfactory to

4 the mayor and aldermen of said city for the time  
5 being, that the sum of two hundred and twenty-five  
6 thousand dollars has been collected from the sub-  
7 scriptions to the stock of said company, and paid in,  
8 and actually expended in the purchase of the right of  
9 way, and the construction of that section of their road  
10 extending from the terminus of said road in the town  
11 of Milford, to its terminus in the town of Lincoln,  
12 and that the road bed for such section, including all  
13 necessary bridges and masonry, ready for the super-  
14 structure, has been completed, then such facts shall  
15 be certified by the mayor and aldermen to the city  
16 treasurer, and he shall forthwith issue to the directors  
17 of said company, for the purpose of completing said  
18 road, the scrip of said city, payable to the holders  
19 thereof, at the expiration of twenty years from the  
20 date thereof, in the sum of two hundred and twenty-  
21 five thousand dollars, with coupons for interest at-  
22 tached, payable semi-annually. *Provided, however,*  
23 that said scrip of two hundred and twenty-five thou-  
24 sand dollars may be sub-divided, and issued in such  
25 sums, and at such times thereafter, as may be con-  
26 venient for said company, and in like manner if said  
27 company shall, within three years from the approval

23 of this act, produce evidence satisfactory to the mayor  
 29 and aldermen of said city for the time being, that the  
 30 further sum of one hundred thousand dollars has been  
 31 collected from the subscriptions to the stock of said  
 32 company, in addition to the aforesaid sum of two  
 33 hundred and twenty-five thousand dollars, and paid  
 34 in, and actually expended in the construction of their  
 35 road, and that the road bed of that section of the road  
 36 extending from the aforesaid terminus in Lincoln to  
 37 Mattawamkeag point, has been completed, with all  
 38 the necessary bridges and masonry, ready for the  
 39 superstructure, then such facts shall be certified by  
 40 the mayor and aldermen to the city treasurer, and he  
 41 shall forthwith issue to the directors of said company,  
 42 for the purpose of completing said road, the scrip of  
 43 said city, payable to the holders thereof, at the expi-  
 44 ration of twenty years from the date thereof, in the  
 45 further sum of one hundred thousand dollars, with  
 46 coupons for interest attached, payable semi-annually.  
 47 And said scrip of one hundred thousand dollars, may  
 48 be sub-divided, and issued in such sums, and at such  
 49 times thereafter, as may be convenient for said  
 50 company.

SECT. 3. Concurrent with the delivery of the first

2 scrip, as aforesaid, the president and directors of  
3 said company, in their official capacity, shall execute  
4 and deliver to said city treasurer, the bond of said  
5 company, in the penal sum of seven hundred and fifty  
6 thousand dollars, payable to said city; conditioned  
7 that said company will duly pay the interest on said  
8 scrip, and the principal thereof, and the principal and  
9 interest of all other scrip which said city may subse-  
10 quently issue in pursuance of the provisions of this  
11 act, and in all respects hold and save the city harm-  
12 less on account of the issue of the same. And shall  
13 also execute and deliver to said treasurer, the scrip  
14 of said company, payable to the holders thereof, at  
15 the same time, and for the same amount, as the scrip  
16 then issued by said treasurer to said company, with  
17 the like coupons attached; and the scrip of said  
18 company shall in all cases subsequently be issued in  
19 sums corresponding in dates and amounts with the  
20 scrip of said city, which scrip shall be held by said  
21 city as collateral security for the fulfillment of the  
22 conditions of said bond; and in default of any one  
23 of said conditions, said city may, from time to time,  
24 sell said scrip, or any portion thereof, at public auc-  
25 tion, or auctions, in the cities of Bangor, Boston, or

26 New York, after sixty days notice, in writing, to the  
 27 president or one of the directors, or three of the  
 28 stockholders, of said company, naming therein the  
 29 time and place of sale ; and the net proceeds thereof  
 30 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 first scrip from said city, and the delivery of their  
 5 bond to said city, to secure the payment of the same,  
 6 and scrip subsequently to be issued, as hereinbefore  
 7 provided, to execute and deliver to said city, a  
 8 mortgage of said railroad, and of all the property of the  
 9 company, real and personal, which they then have or  
 10 may subsequently acquire, together with their fran-  
 11 chise, without prior incumbrance ; which mortgage  
 12 shall be signed by the said president in his official  
 13 capacity, and shall be executed according to the law  
 14 of this state, and shall be in due and legal form, and  
 15 shall contain apt and sufficient terms to secure to said  
 16 city the fulfillment of all the conditions in said bond  
 17 contained ; and said mortgage, so executed, and  
 18 delivered and recorded in the registry of deeds for

19 the county of Penobscot, shall to all intents and pur-  
20 poses be, and the same is hereby declared to be, a  
21 full and complete transfer of said railroad, of all the  
22 property of said company, real and personal, then or  
23 subsequently to be acquired, and of said franchise,  
24 subject only to the conditions therein contained, any  
25 law to the contrary notwithstanding. And all the  
26 proceedings in the organization of said company and  
27 choice of directors shall be deemed valid and regular.

SECT. 5. For the purpose of foreclosing said  
2 mortgage, it shall be sufficient for 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 Bangor, and record thereof may be made within  
8 thirty days after the date of the last publication, in the  
9 registry of deeds for the county of Penobscot; which  
10 publication and record shall be sufficient for the pur-  
11 pose of such foreclosure. Upon the expiration of  
12 three years from and after such publication, if the  
13 conditions of said mortgage shall not within that time  
14 have been performed, the foreclosure shall be com-



15 plete and shall make the title of the railroad, and to  
16 all the property and franchise aforesaid, absolute in  
17 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 comply  
6 with any of the conditions of said bond, the city of  
7 Bangor may take actual possession, in the manner  
8 hereinafter provided, of the railroad, of all the property  
9 real and personal of the company, and of the franchise  
10 thereof, and may hold the same and apply the income  
11 thereof to make up and supply such deficiencies, and  
12 all further deficiencies that may occur, while the same  
13 are so held, until such deficiencies shall be fully made  
14 up and discharged. A written notice signed by the  
15 mayor and aldermen, and served upon the president  
16 or treasurer or any director of the company, or if  
17 there are none such, upon any stockholder of the  
18 company, stating that the city thereby takes actual  
19 possession of the railroad, and of the property and  
20 franchise of the company, shall be a sufficient actual  
21 possession thereof, and shall be a legal transfer of

22 all the same for the purpose aforesaid to the city,  
23 and shall enable the city to hold the same against any  
24 other transfer thereof, and against any other claim  
25 thereon, until such purposes have been fully accom-  
26 plished. Such possessions shall not be considered as  
27 an entry for foreclosure under any mortgage here-  
28 inbefore provided. Nor shall the rights of the city  
29 or of the company under any mortgage in any man-  
30 ner be affected thereby.

SECT. 7. All moneys received by or for the railroad  
2 company after notice as aforesaid, from any source  
3 whatever and by whomsoever the same may be re-  
4 ceived, shall belong to and be held for the use and  
5 benefit of the city in the manner and for the purposes  
6 herein provided, and shall, after notice given to per-  
7 sons receiving the same, respectively be by them paid  
8 to the city treasurer, which payment shall be an effect-  
9 ual discharge from all claims of the company therefor ;  
10 but if any person without such notice shall make pay-  
11 ment of moneys so received, to the treasurer of the  
12 company, such payment shall be a discharge of all  
13 claims of the city therefor. All moneys received by  
14 the treasurer of the company after such notice, or in  
15 his hands at the time such notice may be given, shall

16 be by him paid to the city treasurer, after deducting  
 17 the amount expended or actually due for the running  
 18 expenses of the road, for the salaries of the officers of  
 19 the company, and for repairs necessary for conducting  
 20 the ordinary operations of the road. Such payments  
 21 to the city treasurer shall be made at the end of every  
 22 calendar month, and shall be by him applied to the  
 23 payment of all the interest and principal due as afore-  
 24 said. And any person who shall pay or apply any  
 25 moneys received as aforesaid, in any manner contrary  
 26 to the foregoing provisions, shall be liable therefor,  
 27 and the same may be recovered in any action for  
 28 money had and received, in the name of the city  
 29 treasurer, whose duty it shall be to sue for the same,  
 30 to be by him held and applied as 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 in-  
 4 stituted in the name of the city of Bangor, in  
 5 the supreme judicial court in the county of Penob-  
 6 scot, against the railroad company, its directors or  
 7 any other persons as may be necessary for the pur-  
 8 pose of discovery, injunction, account or other relief  
 9 under the provisions of this act. And any judge of

10 the court may issue a writ of injunction or any other  
11 suitable process on any such bill, in vacation or in  
12 term time, with or without notice, and the court shall  
13 have jurisdiction of the subject matter of such bill,  
14 and shall have such proceedings and make such  
15 orders and decrees as may be within the powers and  
16 according to the course of proceedings of courts of  
17 equity 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 shall  
5 appoint a board of directors consisting of not less  
6 than seven persons, or any other necessary officers,  
7 and the persons so appointed shall have all the power  
8 and authority of officers chosen or appointed under  
9 provisions of the act establishing said company ; and  
10 upon their acceptance such officers shall be subject  
11 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 accumulative pro-  
 2 tection for said city, all liabilities which by said city  
 3 may be assumed or incurred under or by virtue of  
 4 any of the provisions of this act, shall, at the time,  
 5 and by force thereof, and for the security and pay-  
 6 ment of the same, create in favor of said city a lien  
 7 on said railroad, its franchise, and all of its append-  
 8 ages, and all the real and personal property of said  
 9 railroad corporation ; which lien shall have the pref-  
 10 erence, and be prior to all other liens and incum-  
 11 brances whatever ; and shall be enforced, and the  
 12 rights and interests of said city protected, when neces-  
 13 sary, by suitable and proper judgments, injunctions,  
 14 or decrees of said supreme judicial court, on a bill or  
 15 bills in equity ; which power is hereby specially con-  
 16 ferred on said 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 re-  
7 turn of such ward meetings shall be made to the  
8 aldermen of said city, and by them counted and  
9 declared, and said city clerk shall make a record  
10 thereof. And in case this act is accepted by the  
11 inhabitants of said city of Bangor and the said com-  
12 pany, the thirteenth section of the act of incorpora-  
13 tion of said company, approved March eighth, A. D.  
14 eighteen hundred and fifty-two, is hereby repealed.

SECT. 13. The provisions of this act shall be in  
2 force from and after its approval by the governor.

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S T A T E O F M A I N E .

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IN SENATE, Feb. 17, 1854.

This bill was read once, and Tuesday next, at 12 o'clock noon, assigned for a second reading, and ordered that 350 copies be printed for the use of the Legislature.

WILLIAM TRAFTON, *Secretary.*