

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.

THIRTY-THIRD LEGISLATURE.

HOUSE.

No. 26.

STATE OF MAINE.

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

AN ACT to authorize the city of Calais to aid in the
construction of the Lewy's Island Railroad.

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

SECTION 1. The city of Calais is hereby authorized
2 to loan its credit to the Lewy's Island Railroad Com-
3 pany in aid of the construction of their railroad, not
4 exceeding, however, the sum of one hundred and
5 fifty thousand dollars, upon their compliance with the
6 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 the

4 mayor and aldermen of said city for the time being,
5 that the sum of one hundred and fifty 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 purchase of the right of way and the construc-
9 tion of the road, and that the road bed for the whole
10 distance from its terminus in Baring to its terminus
11 at Lewy's Lake in Princeton, including all necessary
12 bridges and masonry ready for the superstructure,
13 has been completed, then such facts shall be certified
14 by the mayor and aldermen to the city treasurer, and
15 he shall forthwith issue to the directors of said com-
16 pany, for the purpose of completing said road, the
17 scrip of said city, payable to the holders thereof at
18 the expiration of twenty years from the date thereof,
19 in the sum of one hundred and fifty thousand dollars,
20 with coupons for interest attached, payable semi-
21 annually; *provided, however*, that said scrip of one hun-
22 dred and fifty thousand dollars may be subdivided and
23 issued in such sums and at such times thereafter, as
24 may be convenient for said company.

SECT. 3. Concurrent with the delivery of the first
2 scrip as aforesaid, the president and directors of said
3 company, in their official capacity, shall execute and

4 deliver to said city treasurer the bond of said com-
5 pany in the penal sum of three hundred thousand
6 dollars, payable to said city, conditioned that said
7 company will duly pay the interest on said scrip and
8 the principal thereof, and the principal and interest of
9 other scrip which said city may subsequently issue in
10 pursuance of the provisions of this act, and in all
11 respects hold and save the city harmless on account
12 of the issue of the same, and shall execute and deliver
13 to said treasurer the scrip of said company, payable
14 to the holders thereof, at the same time and for the
15 same amount as the scrip then issued by the treasurer
16 to the said company, with the like coupons attached ;
17 and the scrip of said company shall in all cases subse-
18 quently be issued in sums corresponding in dates and
19 amounts with the scrip of said city, which scrip shall
20 be held by said city as collateral security for the
21 fulfillment of the conditions of said bond ; and in
22 default of any one of said conditions said city may
23 from time to time sell said scrip or any portion there-
24 of at public auction or auctions, in the cities of Calais,
25 Boston or New York, after sixty days notice in writ-
26 ing to the president or one of the directors or three
27 of the stockholders of said company, naming therein

28 the time and place of sale ; and the net proceeds
29 thereof 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 first
4 scrip from said city, and the delivery of their bond
5 to the said city, to secure the payment of the same,
6 and the scrip subsequently to be issued as herein-
7 before provided, to execute and deliver to said city,
8 a mortgage of said railroad, and of all the property
9 of said company, real and personal, which they then
10 have, or may subsequently acquire, together with
11 their franchise without prior incumbrance ; which
12 mortgage shall be signed by said president in his offi-
13 cial capacity, and shall be executed according to the
14 law of this state, and shall be in due and legal form,
15 and shall contain apt and sufficient terms, to secure
16 to said city the fulfillment of all the conditions in said
17 bond contained ; and said mortgage, so executed
18 and delivered, and recorded in the registry of deeds
19 for the county of Washington, shall, to all intents and
20 purposes be, and the same is hereby declared to be,
21 a full and complete transfer of said railroad, of all
22 the property of said company, real and personal, then

23 or 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 of the organization of said company, and
27 choice of directors, shall be deemed valid and regular.

SECT. 5. For the purpose of foreclosing said mort-
2 gage, it shall be sufficient for said mayor and alder-
3 men to give notice according to the mode prescribed
4 in the fifth section of the one hundred and twenty-
5 fifth chapter of the revised statutes; which notice
6 may be published in a newspaper printed in said city
7 of Calais, and record thereof may be made within
8 thirty days after the date of the last publication, in
9 the registry of deeds for the county of Washington,
10 which publication and record shall be sufficient for
11 the purposes of such foreclosure. Upon the expira-
12 tion of three years, from and after such publication,
13 if the conditions of said mortgage shall not within
14 that time have been performed, the foreclosure shall
15 be complete; and shall make the title to the railroad,
16 and to all the property and franchises aforesaid, abso-
17 lute 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 pay
5 the principal as it becomes due, or to comply with
6 any of the conditions of said bond, the city of Calais
7 may take actual possession in the manner hereinafter
8 provided, of the railroad, of all the property, real and
9 personal, of the company, and of the franchise
10 thereof; and may hold the same, and apply the in-
11 come thereof, to make up and supply such deficiencies,
12 and all further deficiencies that may occur, while the
13 same are so held, until such deficiencies are so 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 in 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 all
22 the same for the purposes aforesaid, to the city, and
23 shall enable the city to hold the same against any
24 other transfers thereof, and against any other claims
25 thereon, until such purposes have been fully accom-
26 plished. Such possession shall not be considered as

27 an entry for foreclosure, under any mortgage herein-
28 before provided; nor shall the rights of the city,
29 or of the company, under any mortgage, be in any
30 manner 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 ef-
9 fectual discharge from all claims of the company
10 therefor; but if any person without such notice shall
11 make payments of moneys so received to the treasurer
12 of the company, such payment shall be a discharge
13 of all claims of the city therefor. All moneys received
14 by the treasurer of the company after such notice, or
15 in his hands at the time such notice may be given,
16 shall be by him paid to the city treasurer, after de-
17 ducting the amount expended or actually due for the
18 running expenses of the road, for the salaries of the
19 officers of the company and for repairs necessary for
20 conducting the ordinary operations of the road. Such

21 payments to the city treasurer shall be made at the
22 end of every calendar month, and shall be by him
23 applied to the payment of all the interest and princi-
24 pal due as aforesaid. And any person who shall pay
25 or apply any moneys received as aforesaid, in any
26 manner contrary to the foregoing provisions, shall be
27 liable therefor, and the same may be recovered in an
28 action for money had and received in the name of
29 the city treasurer, whose duty it shall be to sue for
30 the same, to be by him held and applied as is herein
31 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 Calais, in the supreme
5 judicial court in the county of Washington, against
6 the railroad company, its directors, or any other per-
7 son 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 on any such bill, in vacation or in term time, with or
12 without notice, and the court shall have jurisdiction
13 of the subject matter of such bill, and shall have such

14 proceedings and make such orders and decrees as
15 may be within the powers and according to the course
16 of proceedings of courts of equity, as the necessities
17 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 sub-
11 ject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint one of the direc-
2 tors 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 shall
6 have the same authority in transacting the business of
7 said company and who shall be entitled to like com-
8 pensation from the company as any other directors.

9 But the right to choose such directors shall cease
10 when the loan contemplated is extinguished.

SECT. 11. As an additional or cumulative protec-
2 tion for said city, all liabilities which by said city may
3 be assumed or incurred under or by virtue of any of
4 the provisions of this act, shall at the times and by
5 force thereof and for the security and payments of
6 the same, create in favor of said city a lien on said
7 railroad, its franchise, and of all its appendages, and
8 on 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 su-
14 preme judicial court, on a bill or bills in equity, which
15 power is hereby specially conferred 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, within six months after
5 the approval by the governor of this act. At least
6 two-thirds of the votes cast at such ward meetings

7 shall be necessary for the acceptance of this act.
8 The return of such ward meetings shall be made to
9 the aldermen of said city, and by them counted and
10 declared, and said city clerk shall make a record
11 thereof.

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

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
April 1, 1854. }

Ordered, That 350 copies of this bill be printed for the use
of the Legislature.

JOHN J. PERRY, *Clerk*.