

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1860.

SIEVENS & SAYWARD, PRINTERS TO THE STATE.

1860.

THIRTY-NINTH LEGISLATURE.

HOUSE.

No. 16.

STATE OF MAINE.

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

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AN ACT to authorize the city of Bath to lend its aid in the construction of, and extension of, the Androscoggin Railroad, from the town of Leeds to the town of Topsham or Brunswick.

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

SECTION 1. The city of Bath is hereby authorized to  
2 loan its credit to the Androscoggin Railroad Company,  
3 to aid in the construction of, and extension of their  
4 railroad, from any point in its present road, in the town  
5 of Leeds, to connect with the Kennebec and Portland  
6 railroad in the town of Topsham or Brunswick, in a  
7 sum not exceeding two hundred thousand dollars, sub-  
8 ject to the following conditions, terms and provisions.

SECT. 2. If this act shall be accepted, as is herein-  
2 after provided, and the directors of said company shall,  
3 within nine months after its acceptance by said city,  
4 produce satisfactory evidence to the mayor and alder-  
5 men of said city, for the time being, that a sum of  
6 money not less than fifty thousand dollars, has been  
7 raised by said company, and paid in and actually ex-  
8 pended in the construction of the extension of their  
9 road, and the purchase of the right of way, from or  
10 near the junction in the town of Leeds, to the town of  
11 Topsham or Brunswick, then such fact shall be certified  
12 by the mayor and aldermen to the city treasurer, and  
13 he shall forthwith issue to the directors of said com-  
14 pany, for the purpose of building, furnishing and com-  
15 pleting said extension of the road, the scrip of said  
16 city payable to the holders thereof, at the expiration  
17 of thirty years from the date thereof, in the sum of one  
18 hundred thousand dollars, with coupons for interest  
19 attached, payable semi-annually; and said company  
20 shall within twenty-four months, produce evidence to  
21 the satisfaction of the mayor and aldermen, that a  
22 further sum of fifty thousand dollars has been raised  
23 and expended in the same manner, on the extension  
24 of their road as before mentioned, then such fact shall  
25 be certified to the city treasurer, as before provided,  
26 and he shall forthwith issue similar scrip to the directors

27 of said road for the further sum of one hundred thou-  
28 sand dollars, being in all two hundred thousand dollars ;  
29 and said scrip may be subdivided into such sums as  
30 the parties may deem expedient.

SECT. 3. Concurrent with the issue and delivery of  
2 said city scrip, as aforesaid, in each case the president  
3 and directors of said company, in their official capacity,  
4 shall execute and deliver to the said treasurer, the bond  
5 of said company, the penal sum in each bond to be  
6 double the amount of the scrip authorized to be issued  
7 at that time ; said bonds shall be made payable to said  
8 city, and shall be conditioned that said company will  
9 duly pay the interest on such scrip of said city as shall  
10 be issued at the time of the date of the bonds respect-  
11 ively, and also the principal thereof, according to the  
12 tenor of the scrip ; and in all respects, will hold and  
13 save harmless, the said city, on account of the issue of  
14 the same ; the said president and directors of said  
15 company, shall also, in each case of the issuing of the  
16 scrip of said city, as provided in section two of this  
17 act, and simultaneously therewith, make, execute and  
18 deliver to the said city treasurer, the scrip of said com-  
19 pany, payable to the holder thereof, at the same time,  
20 and for the same amount, as the scrip then issued by  
21 said treasurer to said company, with like coupons for  
22 the interest, attached ; which said scrip shall be held

23 by said city as collateral security for the fulfillment of  
24 the conditions of the said bond ; and in default of any  
25 one of said conditions, said city may from time to time,  
26 sell said scrip, or any portion thereof, by public auction  
27 or auctions, in the cities of Bath, Boston or New York,  
28 or either of them, after sixty days notice in writing to  
29 the president, or one of the directors, or any three of  
30 the stockholders of said company, naming therein, the  
31 time and place of sale. The net proceeds of all such  
32 sales, shall be endorsed on one of the said bonds.

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 the first  
4 issue of said city scrip, and upon the delivery of their  
5 bonds to the said city, to secure the payment of the  
6 same,—to execute and deliver to said city treasurer, a  
7 mortgage of said extension of their railroad from Leeds,  
8 to Topsham or Brunswick, and of all the property of  
9 said extension, which they then have, or may subse-  
10 quently acquire ; and also the franchise of said exten-  
11 sion, without prior incumbrance ; and the said mort-  
12 gage shall be so made, as to embrace not only the said  
13 extension, but also the original road of said company,  
14 from Leeds to Farmington, and of all the property of  
15 said road, including the franchise thereof, subject how-  
16 ever, to prior uncanceled mortgages upon the same.

17 Said mortgage shall be so made as to cover, not only  
18 the city scrip then issued, but all the scrip which may  
19 thereafter be issued, under the provisions of this act ;  
20 and being so made, it shall be deemed and held to be  
21 good and valid, and a security to said city for all  
22 the scrip it may issue to said directors. It shall be  
23 signed by the president of said company, in his official  
24 capacity, and shall be executed according to the laws  
25 of this state, and shall be in due and legal form, and  
26 shall contain apt and sufficient terms to secure to said  
27 city, the fulfillment of the conditions in said bonds con-  
28 tained ; and said mortgages, so executed and deliv-  
29 ered, and recorded in the registry of deeds, for the  
30 county of Sagadahoc, shall to all intents and purposes  
31 be, and the same is, hereby declared to be a full and  
32 complete transfer of said extension from Leeds to Tops-  
33 ham or Brunswick, and of all the property, real and  
34 personal, then, or subsequently to be acquired, and of  
35 said franchise ; and also, a full and complete transfer  
36 of the said road, from Leeds to Farmington, and of all  
37 the property of said road including the franchise there-  
38 of, subject to prior uncanceled mortgages on the same ;  
39 said transfers being subject only to the conditions con-  
40 tained in said mortgages, any law to the contrary not-  
41 withstanding. All the proceedings in the organiza-

42 tion of said company, and choice of directors, shall be  
43 deemed valid and regular.

SECT. 5. For the purpose of foreclosing said mort-  
2 gage, for conditions broken, it shall be sufficient for  
3 the said mayor and aldermen, to give notice according  
3 to the mode prescribed in the revised statutes, for the  
4 foreclosure of mortgages, by publication of notice  
5 thereof, which may be published in a newspaper  
6 printed in Bath, and a record thereof may be made  
7 within thirty days after the date of the last publication,  
8 in the registry of deeds for the county of Sagadahoc,  
9 which publication and the record, shall be sufficient  
10 for the purpose of such foreclosure. Upon the expira-  
11 tion of three years, from and after such publication, if  
12 the conditions of said mortgage shall not within that  
13 time have been fulfilled, the foreclosure shall be com-  
14 plete, and shall make the title of said extension and of  
15 said road, and to all the property and franchise afore-  
16 said, absolute in said city.

SECT. 6. If the directors of said company, shall, at  
2 any time, neglect or omit to pay the interest, which  
3 may be become due upon any portion of the scrip is-  
4 sued and delivered under the provisions of this act, or  
5 to pay the principal as it shall become due, or to com-  
6 ply with any of the conditions of said bonds, the city



7 of Bath may take actual possession in the manner  
8 hereinafter provided, of the whole of said railroad, and  
9 of all the property real and personal of the company,  
10 and of the franchise thereof, and may hold the same,  
11 and apply the income thereof, to make up and supply  
12 such deficiency 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 director  
17 of the company, or if there are none such, upon any  
18 stockholder of the company, stating that the city  
19 thereby takes actual possession of the whole line of the  
20 railroad, and of the property and franchise of the com-  
21 pany, shall be a sufficient actual possession thereof, and  
22 shall be a legal transfer of all 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,  
25 until such purposes have been fully accomplished.  
26 Such possession shall not be considered an entry for  
27 foreclosure, under any mortgages hereinbefore pro-  
28 vided ; nor shall the rights of the city, or of the com-  
29 pany, under any mortgages, in any manner be effected  
30 thereby.

SECT. 7. 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 city, in 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  
9 effectual discharge from all claims of the company  
10 therefor ; but if any person, without such notice, shall  
11 make payment of moneys so received, to the treasurer  
12 of the company, such payment shall be a discharge of  
13 all 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 services 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  
22 every calendar month, and shall be by him applied to  
23 the payment of all the interest and principal due as  
24 aforesaid. And any person who shall pay or apply  
25 any moneys received, as aforesaid, in any manner con-  
26 trary to the foregoing provisions, shall be liable there-  
27 for, and the same may be recovered in an 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 insti-  
4 tuted in the name of the city of Bath, in the supreme  
5 judicial court, in the county of Sagadahoc, against said  
6 company, directors, or any other person, as may be  
7 necessary for the purpose of discovery, injunction, ac-  
8 count, or other relief, under the provisions of this act ;  
9 and any judge of the court, may issue a writ of injunc-  
10 tion, or any other suitable process, on any such bill, in  
11 vacation or in term time, with or without notice ; and  
12 the court shall have jurisdiction of the subject matter  
13 of such bill, and shall have such proceedings, and make  
14 such orders and decrees, as may be within the power,  
15 and according to the course of proceedings of courts of  
16 equity, as the necessities of the case may require.

SECT. 9. If the said railroad company shall, after  
2 notice of possession, as aforesaid, neglect to choose  
3 directors thereof, or any other necessary officer, or none  
4 such shall be found, the mayor and aldermen of the  
5 city, shall appoint a board of directors, consisting of  
6 not less than seven persons, or any other necessary  
7 officers, and the persons so appointed, shall have all

8 the power and authority of officers chosen or appointed  
9 under the provisions of the act establishing said com-  
10 pany, 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 directors  
2 of the 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 director.  
9 But the right to choose such director, shall cease, when  
10 the loan contemplated is extinguished.

SECT. 11. As an additional or accumulative 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 time, and by  
5 force thereof, and for the security and payment of the  
6 same, create in favor of said city, a lien on the whole  
7 of said railroad, its franchise, and all its appendages,  
8 and all real and personal property of said railroad cor-  
9 poration, which lien shall have preference, and be prior  
10 to all other liens and incumbrances, whatever, on the  
11 said extension, from Leeds to Topsham or Brunswick,

12 and on the road from Leeds to Farmington, and on all  
13 the other property of said railroad corporation, subject  
14 only to prior uncanceled mortgages ; and said lien  
15 shall be enforced, and all the rights and interests of  
16 said city shall be protected, when necessary, by suitable  
17 and proper judgments, injunctions, or decrees, of  
18 said supreme judicial court, on a bill or bills in equity,  
19 which power is hereby specially conferred on said  
20 court.

SECT. 12. This act shall not take effect, unless it  
2 shall be accepted by said corporation, within six  
3 months from and after its approval ; and also by said  
4 city, by a legal vote of the legal voters thereof, voting  
5 in public meeting duly and legally called, within six  
6 months from and after its approval ; and at least two-  
7 thirds of the legal voters of said city, present and vot-  
8 ing at said meeting as aforesaid, shall be necessary for  
9 the acceptance of this act, on the part of said city ;  
10 nor shall this act take effect, unless said road from said  
11 Leeds, shall enter said town of Topsham or Brunswick,  
12 and shall terminate therein, at some point on the Ken-  
13 nebec and Portland Railroad, and shall connect there-  
14 with, in one of said towns. The vote of said public  
15 meeting shall be ascertained and declared, in open  
16 town meeting, and if the act shall be accepted, as

17 aforesaid, then after such acceptance, and record  
18 thereof, all the parts of this act shall take effect, and  
19 be in full force thereafter.

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

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STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 18, 1860. }

On motion of Mr. STONE of Kennebunk,

Laid on the table, and 350 copies ordered to be printed for the  
use of the Legislature.

F. M. DREW, *Clerk pro tem.*