

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.

SENATE.

No. 21.

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 Bangor to aid in the  
construction of the Aroostook 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  
2 to loan its credit to the Aroostook Railroad Company,  
3 in aid of the construction of their railroad, not exceed-  
4 ing, however, the sum of fourteen thousand dollars  
5 per mile, upon their compliance with the following  
6 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 fifty thousand dollars has been sub-  
6 scribed to the stock of said company, to be expended  
7 in the construction of their road, and the purchase of  
8 the right of way, then such fact shall be certified by  
9 the mayor and aldermen to the city treasurer, and he  
10 shall forthwith issue to the directors of said company  
11 for the purpose of completing said road, the scrip of  
12 said city, payable to the holders thereof, at the expira-  
13 tion of thirty years from the date thereof, at the rate of  
14 fourteen thousand dollars per mile, not to exceed the  
15 sum of eight hundred and fifty thousand dollars, with  
16 coupons for interest attached, payable semi-annually,  
17 *provided however*, that the whole amount of said scrip  
18 shall not exceed the sum of eight hundred and fifty  
19 thousand dollars; and *provided further*, that said scrip  
20 may be subdivided and issued in lieu thereof, for such  
21 sums as the parties may deem expedient. And one  
22 hundred and forty thousand dollars of said scrip may  
23 be issued on the completion of ten miles of said road,  
24 and one hundred and forty thousand dollars more on  
25 the completion of each additional ten miles from its  
26 point of departure towards Mattawankeag point, till  
27 the whole sum is exhausted; to be applied to the con-  
28 struction of its line between Mattawankeag point and  
29 its southern terminus.

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 fifteen hundred thousand dollars  
6 payable to said city, conditioned that said company  
7 will duly pay the interest on said scrip and the prin-  
8 cipal 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 scrip  
13 then issued by said treasurer to said company with like  
14 coupons attached, which scrip shall be held by said city  
15 as collateral security for the fulfillment of the condi-  
16 tions of said bond, and in default of any one of said  
17 conditions said city may from time to time sell said  
18 scrip, or any portion thereof, at public auction or  
19 auctions in the cities of Bangor, Portland, Boston, or  
20 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 time  
23 and place of sale, and the net proceeds thereof shall  
24 be endorsed on said bond.

SECT. 4. The president and directors of said compa-  
2 ny are hereby authorized, and it shall be their duty in  
3 their official capacity upon the receipt of said scrip,  
4 from said city, and the delivery of their bond to said

5 city, to secure the payment of the same to execute and  
6 deliver to said city a mortgage of said railroad, and  
7 of all the property of said company, real and personal,  
8 which they then have or may subsequently acquire,  
9 together with their franchise without prior incum-  
10 brance, which mortgage shall be signed by the said  
11 president in his official capacity, and shall be executed  
12 according to the law of this state, and shall be in due  
13 and legal form, and shall contain apt and sufficient  
14 terms to secure to said city the fulfillment of all the  
15 conditions in said bond contained, and said mortgage  
16 so executed and delivered and recorded in the registry  
17 of deeds for the county of Penobscot, shall to all in-  
18 tents and purposes be, and the same is hereby declared  
19 to be, a full and complete transfer of said railroad, of  
20 all the property of said company, real and personal,  
21 then or subsequently to be acquired, and of said fran-  
22 chise, subject only to the conditions therein contained,  
23 any law to the contrary notwithstanding. And all the  
24 proceedings in the organization of said company and  
25 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 aldermen  
3 to give notice according to the mode prescribed in the  
4 fifth section of the ninetieth chapter of the revised  
5 statutes, which notice may be published in a newspa-

6 per printed in Bangor, and record thereof may be  
7 made within thirty days after the date of the last pub-  
8 lication, in the registry of deeds for the county of  
9 Penobscot, which publication and record shall be suffi-  
10 cient for the purpose of such foreclosure. Upon the  
11 expiration of three years from and after such publica-  
12 tion, if the conditions of said mortgage shall not with-  
13 in that time have been performed, the foreclosure shall  
14 be complete and shall make the title of the railroad,  
15 and to all the property and franchise aforesaid, abso-  
16 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  
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 here-  
8 inafter 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 there  
17 are none such, upon any stockholders of the company,  
18 stating that the city thereby takes actual possession of  
19 the railroad, and of the property and franchise of the  
20 company, shall be a sufficient actual possession thereof,  
21 and shall be a legal transfer of all the same for the  
22 purpose aforesaid, to the city, and shall enable the city  
23 to hold the same against any other transfer thereof,  
24 and against any other claim thereon, until such pur-  
25 poses have been fully accomplished. Such possessions  
26 shall not be considered as an entry for foreclosure  
27 under any mortgage herein before provided. Nor shall  
28 the rights of the city, or of the company, under any  
29 mortgage, in any manner 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 received,  
4 shall belong to and be held for the use and benefit of  
5 the city, in the manner and for the purposes herein  
6 provided, and shall, after notice given to persons re-  
7 ceiving the same, respectively be by them paid to the  
8 city treasurer, which payment shall be an effectual  
9 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, and  
27 the same may be recovered in an action for money had  
28 and received, in the name of the city treasurer, whose  
29 duty it shall be to sue for the same, to be by him held  
30 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 Bangor, in the supreme  
5 judicial court in the county of Penobscot, against the  
6 railroad company, its directors, or any other person, as  
7 may be necessary for the purpose of discovery, injunc-  
8 tion account or other relief under the provisions of

9 this act. And any judge of the court may issue a  
10 writ of injunction, or any other suitable process on any  
11 such bill, in vacation or in term time, with or without  
12 notice ; and the court shall have jurisdiction of the  
13 subject matter of such bill, and shall have such pro-  
14 ceedings and make such orders and decrees as may be  
15 within the powers and according to the course of pro-  
16 ceedings of courts of equity, as the necessities of the  
17 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 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 to  
11 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 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  
3 may be assumed or incurred under, or by virtue of any  
4 of 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 said rail-  
7 road, its franchise and all its appendages, and all real  
8 and personal property of said railroad corporation,  
9 which lien shall have the preference and be prior to  
10 all other liens and incumbrances whatever, and shall  
11 be enforced, and the rights and interests of said city  
12 protected, when necessary, by suitable and proper  
13 judgments, injunctions or decrees of said supreme  
14 judicial court, on a bill or bills in equity, which power  
15 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 two years after  
5 the approval of this act by the governor, and at least  
6 two-thirds of the votes cast at such ward meetings

7 shall be necessary for the acceptance of this act. The  
8 return of such ward meetings shall be made to the  
9 aldermen of said city and by them counted and de-  
10 clared, and said city clerk shall make a record thereof,  
11 and if the act shall be accepted as aforesaid, then af-  
12 ter such acceptance and record thereof, all the parts  
13 of the act shall take effect and be in full force there-  
14 after.

SECT. 13. An act entitled an act to authorize the  
2 city of Bangor to aid in the construction of the Aroos-  
3 took railroad, approved April fourth, in the year  
4 eighteen hundred and fifty-nine, is hereby repealed.

STATE OF MAINE.

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IN SENATE, March 9, 1860.

This bill, reported from the Committee on Railroads, Ways and Bridges, was read and 350 copies ordered to be printed for the use of the Legislature.

JAMES M. LINCOLN, *Secretary.*