

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1864.



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1864.

FORTY-THIRD LEGISLATURE.

HOUSE.

No. 35.

STATE OF MAINE.

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

AN ACT to authorize the city of Bangor to aid the
construction of the European and North American
Railway.

*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 European and North American
3 Railway Company in aid of the construction of their
4 railroad, not exceeding however five hundred thousand
5 dollars, upon their compliance with the following terms
6 and conditions :

SECT. 2. If this act shall be accepted as is herein-
2 after provided, and said company shall within three
3 years from its approval, finish and complete their line

4 of railway from Bangor to Lincoln by the running of
5 cars thereon, then such fact shall be certified by the
6 mayor and aldermen of the city to the city treasurer,
7 and he shall forthwith issue to the directors of said
8 company for the purpose of building, furnishing and
9 completing said road, the scrip of said city payable to
10 the holder thereof, in sums of one thousand dollars
11 each, with coupons for interest attached payable semi-
12 annually, the principal payable in thirty years from
13 the date thereof, and all payable in Boston or New
14 York, the same to be signed by the city treasurer and
15 countersigned by the Mayor of said city.

SECT. 3. Concurrent with the issue and delivery of
2 said city scrip as aforesaid, the president and directors
3 of said company, in their official capacity, shall exe-
4 cute and deliver to the said treasurer the bond of said
5 company, the penal sum in each bond to be double the
6 amount of the scrip authorized to be issued at that
7 time; said bonds shall be made payable to said city,
8 and shall be conditioned that said company will duly
9 pay the interest on such scrip of said city as shall be
10 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 case of the issuing of the scrip
16 of said city as provided in section two of this act, and
17 simultaneously therewith make, execute and deliver to
18 the said city treasurer the scrip of said company pay-
19 able to the holder thereof, at the same time and for
20 the same amount as the scrip then issued by said
21 treasurer to said company, with like coupons for the
22 interest attached ; which said scrip shall be held by
23 said city as collateral security for the fulfilment of the
24 conditions of the said bond ; and in default of any one
25 of said conditions, said city may from time to time
26 sell said scrip, or any portion thereof, by public auc-
27 tion or auctions, in the cities of Bangor, Boston or
28 New York, or either of them, after sixty days notice
29 in writing to the president, or one of the directors, or
30 any three of the stockholders of said company, naming
31 therein the time and place of sale. The net proceeds
32 of all such sales shall be endorsed on one of said
33 bonds.

SECT. 4. The president and directors of said com-
2 pany are hereby authorized, and it shall be their
3 duty, in their official capacity, upon the receipt of said
4 city scrip and upon the delivery of their bonds to said
5 city to secure the payment of the same, to execute

6 and deliver to said city treasurer, a mortgage of their
7 railroad from Bangor to Lincoln, without prior incum-
8 brance ; said mortgage shall be executed according to
9 the laws of this state and shall be in due and legal
10 form, and shall contain apt and sufficient terms to secure
11 the said city the fulfilment of the conditions in said
12 bonds contained.

SECT. 5. For the purpose of foreclosing said mort-
2 gage for conditions broken, it shall be sufficient for the
3 said mayor and aldermen to give notice according to
4 the mode prescribed in the revised statutes for the
5 foreclosure of mortgages, by publication of notice
6 thereof, which may be published in a newspaper
7 printed in Bangor, and a 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 purpose of such foreclosure. Upon the expira-
12 tion of three years from and after such publication, if
13 the condition shall not within that time have been ful-
14 filled, the foreclosure shall be complete, and shall
15 make the title to said road, and to all the property
16 and franchise aforesaid, 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 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 bonds, the city of
7 Bangor may take actual possession in the manner
8 hereinafter provided, of the whole of said railroad,
9 and of all the property, real and personal of the com-
10 pany, and of the franchise thereof, and may hold the
11 same and apply the income thereof, to make up and
12 supply such deficiency, and all further deficiencies
13 that may occur while the same are so held, until such
14 deficiencies shall be fully made up and discharged. A
15 written 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
20 the railroad, and of the property and franchise of the
21 company, shall be a sufficient actual possession thereof,
22 and shall be a legal transfer of all the same, for the
23 purposes aforesaid to the city, and shall enable the
24 city to hold the same against any other claims thereon
25 until such purposes have been fully accomplished.

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 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 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 calender 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 Bangor, in the
5 supreme judicial court, in the county of Penobscot
6 against said company, directors, or any other person,
7 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 of
13 the subject matter of such bill, and shall have such
14 proceedings, and make such orders and decrees, as
15 may be within the power, 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 said railroad company shall after
2 notice of possession as aforesaid, neglect to choose
3 directors thereof, or any other necessary officers, or
4 none such shall be found, the mayor and aldermen of
5 the 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 the
8 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
• 11 be subject to all the duties and liabilities thereof.

SECT. 10. The city shall appoint one of the direc-
2 tors of the said railroad company, from among the
3 stockholders, who shall be chosen annually, by the
4 city council in joint ballot, before the annual meeting
5 of 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 time, and by force
5 thereof, and for the security and payment of the same,
6 create in favor of said city, a lien on the whole of said
7 railroad, its franchise, and all its appendages, and all
8 real and personal property of said railroad corporation,
9 which lien shall have preference and be prior to all

10 other liens and incumbrances whatever on the said road
11 from Bangor to Lincoln, and on all the other property
12 of said railroad corporation, and said lien shall be en-
13 forced and all the rights and interests of said city shall
14 be protected when necessary, by suitable and proper
15 judgments, injunction or decrees of said supreme judi-
16 cial court, on a bill or bills in equity, which power is
17 hereby specially conferred on said court. And it is
18 hereby provided, that the said lien provided for in this
19 section shall not be deemed waived or ineffectual by
20 the acceptance on the part of said city, of any mort-
21 gage or other securities contemplated by the provisions
22 of this act, or otherwise.

SECT. 12. This act shall not take effect unless it
2 shall be accepted by said corporation within six months
3 from and after its approval ; and also by said city, by
4 a vote of the legal voters thereof voting in ward meet-
5 ings duly and legally called within six months from
6 and after its approval ; and at least two-thirds of the
7 legal voters of said city, present and voting at said
8 meetings as aforesaid, shall be necessary for the ac-
9 ceptance of this act on the part of said city. The
10 return of such ward meetings shall be made to the
11 aldermen of said city, and by them counted and de-
12 clared, and said city clerk shall make a record thereof ;

13 and if the act shall be accepted as aforesaid, then after
14 such acceptance and record thereof, all the parts of
15 this act shall take effect and be in full force thereafter.

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

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
March 22, 1864. }

Presented by leave, by Mr. PETERS of Bangor, and on his motion laid on the table and 350 copies ordered to be printed for the use of the Legislature.

HORACE STILSON, *Clerk.*