

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1866.



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1866.

FORTY-FIFTH LEGISLATURE.

HOUSE.

No. 19.

STATE OF MAINE.

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

AN ACT to authorize the city of Bangor to further 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 further loan its credit to the European and North
3 American Railway Company in aid of the construction
4 of their railroad, not exceeding however, the addi-
5 tional sum of five hundred 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 two years
3 from its approval, finish and complete their line of

4 railway from the depot of the Maine Central Railroad
5 in the city of Bangor to a point ten miles above a point
6 opposite the Bangor, Oldtown and Milford depot in
7 Milford village, to the approval of the mayor and al-
8 dermen, for the time being, of the said city, as a first
9 class railroad, and shall have acquired the right of way
10 according to law by payment of awards and other land
11 damages, or by a deposit of the amount thereof, with
12 the clerk of the courts as by law required, then such
13 fact shall be certified by said mayor and aldermen to
14 the treasurer of said city, and he shall forthwith issue
15 to the directors of said company, for the purpose of
16 building and completing said road to Winn, the scrip
17 of said city to the amount of two hundred thousand
18 dollars, and on the completion of ten additional miles
19 of said road in the direction of Winn, and payment of
20 damages, or deposit thereof by said company, as afore-
21 said, and approval by the mayor and aldermen of said
22 city, for the time being, they shall certify that fact to
23 the city treasurer, who shall forthwith issue to the
24 directors of said company an additional sum of one
25 hundred thousand dollars of the scrip of said city, for
26 the purposes aforesaid, and on the completion of said
27 railway to the tannery village in the town of Winn,
28 opposite to the Five Islands in Penobscot river, and

29 payment of land damages, or deposit thereof as afore-
30 said, by said company within three years from the ap-
31 proval of this act to the approval of the mayor and
32 aldermen of said city, for the time being, they shall
33 certify that fact to the city treasurer, who shall forth-
34 with issue to the directors of said company an addi-
35 tional sum of two hundred thousand dollars of the scrip
36 of said city. All of said scrip shall be signed by the
37 city treasurer and countersigned by the mayor, for the
38 time being, be issued in sums not less than one hun-
39 dred or more than one thousand dollars each, with
40 coupons for interest attached, payable semi-annually,
41 payable to the holder thereof in Boston or New York,
42 the principal payable in thirty-five years from the date
43 of the first issue of scrip under this act ; *provided* the
44 whole amount of scrip issued under this act shall not
45 exceed the sum of five hundred thousand dollars, and
46 each issue of said scrip shall bear date of the certifi-
47 cate of the mayor and aldermen to the city treasurer,
48 on the receipt of which he is authorized to issue the
49 same, and all shall be secured by the bond and mort-
50 gage hereinafter mentioned, which shall be executed
51 and delivered to the city treasurer on the first issue of
52 said scrip.

SECT. 3. Concurrent with the first issue and deliv-

2 ery of said city scrip as aforesaid, the president and
3 directors of said company, in their official capacity
4 shall execute and deliver to the said treasurer the
5 bond of said company, the penal sum in said bond to
6 be double the amount of scrip authorized to be issued
7 by this act; said bond 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
10 shall be issued under and by virtue of this act, and
11 also the principal thereof, according to the tenor of the
12 scrip, and in all respects will hold and save harmless
13 the said city on account of the issue of the same; the
14 said president and directors of said company shall also,
15 in case of the issuing of the scrip of said city as pro-
16 vided in section two of this act, and simultaneously
17 therewith make, execute and deliver to the said city
18 treasurer the scrip of said company payable to the
19 holder thereof, at the same time and for the same
20 amount as the scrip then issued by said treasurer to
21 said company, with like coupons for the interest at-
22 tached, which said scrip shall be held by said city as
23 collateral security for the fulfilment of the conditions
24 of the said bond; and in default of any one of said
25 conditions, said city may from time to time sell said
26 scrip, or any portion thereof, by public auction or

27 auctions, in the cities of Bangor, Boston or New
28 York, or either of them, after sixty days notice in
29 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 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 bond to said city to secure the payment of the same,
6 to execute and deliver to the city treasurer a mort-
7 gage of their railroad from Bangor to Winn, and all
8 the property real and personal of said company and
9 the franchise thereof, without prior incumbrance, ex-
10 cept the mortgage to the city of Bangor on said line
11 from Bangor to Lincoln, as provided in the act entitled
12 "an act to authorize the city of Bangor to aid the
13 construction of the European and North American
14 Railway" approved March twenty-fifth, eighteen hun-
15 dred and sixty-four, said mortgage shall be executed
16 according to the laws of this state, and shall be in
17 due and legal form and contain apt and sufficient
18 terms to secure the said city the fulfilment of all the

19 conditions in said bond contained. Said bond and
20 mortgage shall be recorded in the registry of deeds of
21 the county of Penobscot, which shall be sufficient to
22 protect the rights of said city, and no other recording
23 shall be required.

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
4 to 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
14 fulfilled, 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 bond, 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 a majority of
16 the aldermen of said city, and served upon the presi-
17 dent or treasurer, or any director of the company, or
18 if there are none such, upon any stockholder of the
19 company, stating that the city thereby takes actual
20 possession of the whole line of the railroad, and of the
21 property and franchise of the company, shall be a suf-
22 ficient actual possession thereof, and shall be a legal
23 transfer of all the same, for the purposes aforesaid to
24 the city, and shall enable the city to hold the same
25 against any other claims thereon until such purposes
26 have been fully accomplished.

SECT. 7. All moneys received by or for the said
2 railroad company, after notice as aforesaid, from any
3 grant of congress, or of the States of Maine and Mas-

4 sachusetts, or any source whatever, and by whomso-
5 ever the same may be received shall belong to, and be
6 held for the use and benefit of the city in manner and
7 for the purposes herein provided ; and shall, after no-
8 tice given to persons receiving the same respectively,
9 be by them paid to the city treasurer, which payment
10 shall be an effectual discharge from all claims of the
11 company therefor ; but if any person, without such
12 notice shall make payment of moneys so received, to
13 the treasurer of the company, such payment shall be a
14 discharge of all claims of the city therefor ; all moneys
15 received by the treasurer of the company, after such
16 notice or in his hands at the time such notice may be
17 given, shall be by him paid to the city treasurer, after
18 deducting the amount expended, or actually due for
19 the running expenses of the road, for the services of
20 the officers of the company, and for repairs necessary
21 for conducting the ordinary operations of the road.
22 Such payments to the city treasurer, shall be made at
23 the end of every calendar month, and shall be by him
24 applied to the payment of all the interest and principal
25 due as aforesaid. And any person who shall pay or
26 apply any moneys received, as aforesaid, in any man-
27 ner contrary to the foregoing provisions shall be liable
28 therefor, and the same may be recovered in an action

29 for money had and received, in the name of the city
30 treasurer, whose duty it shall be to sue for the same to
31 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. Three-fourths of the directors of said
2 company shall be resident citizens of said city and
3 two of this number shall be appointed by the city
4 council, who shall be chosen annually, by the city
5 council in joint ballot, before the annual meeting of
6 said company for the choice of their officers, who shall
7 have the same authority in transacting the business
8 of said company, and who shall be entitled to like
9 compensation from the company, as any other directors.
10 But the right to choose such directors shall cease
11 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 wherever situated, which lien shall have preference and
10 be prior to all other liens and incumbrances whatever,
11 except as aforesaid, on the said road and on all the other
12 property of said railroad corporation, and said lien
13 shall be enforced and all the rights and interests of
14 said city shall be protected when necessary, by suitable
15 and proper judgments, injunction or decrees of said
16 supreme judicial court, on a bill or bills in equity,
17 which power is hereby specially conferred on said
18 court. And it is hereby provided, that the said lien
19 provided for in this section shall not be deemed waived
20 or ineffectual by the acceptance on the part of said
21 city, of any mortgage or other securities contemplated
22 by the provisions of this act, or otherwise.

SECT. 12. This act shall not take effect until it shall
2 have been duly accepted by said city of Bangor by a
3 vote of the legal voters thereof voting in ward meet-
4 ings duly and legally called, within eleven months from
5 and after its approval, and by a majority of, at least,
6 three-fourths of the legal voters of said city present
7 and voting at said meetings as aforesaid; nor shall
8 said act take effect until the same shall be duly ac-
9 cepted by the city council of said city by concurrent
10 vote of the two boards of said council, and by a ma-
11 jority of five-sevenths of the aldermen present and

12 voting, and a majority of three-fourths of the common
13 council at a meeting duly called for the purpose, at
14 least thirty days subsequent to its acceptance by vote
15 of the city as hereinbefore provided. The returns of
16 such ward meetings shall be made to the aldermen of
17 said city, and by them counted and declared, and the
18 clerk of said city shall make a record thereof, and if
19 the act shall be accepted as aforesaid, then after such
20 acceptance and record thereof, all the parts of this act
21 shall take effect and 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.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
February 3, 1866. }

Reported by Mr. FOSTER of Bangor, from the Committee on
Railroads, Ways and Bridges.

F. M. DREW, *Clerk.*