
FORTY-SEVENTH LEGISLATURE.

HOUSE.

No. 37.

STATE OF MAINE.

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

AN ACT to authorize the city of Bangor to aid the construction of a railroad into Piscataquis county.

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 Bangor and Piscataquis Rail-
3 road Company in aid of the construction of their rail-
4 road into Piscataquis county, to an amount not exceed-
5 ing fifteen thousand dollars per mile, upon its compli-
6 ance 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 locate its line, and shall within four
4 years from its approval complete their railroad to the

5. Piscataquis river, at or near the village of Milo, and
6 thence to the village of Dover or Foxcroft, from some
7 point on the line of the European and North American
8 Railway in the town of Milford or Oldtown, to the ap-
9 proval of the mayor and aldermen of said city of Ban-
10 gor, as a first class railroad, so that cars may pass
11 over the same the whole distance, and shall perform
12 the other conditions hereinafter named, then the said
13 company shall be entitled to receive the full amount of
14 fifteen thousand dollars per mile, as herein provided.

SECT. 3. When said company shall complete five
2 miles of said railroad from its southern terminus, con-
3 necting such other railroad as aforesaid, then they shall
4 be entitled to receive the sum of seventy-five thousand
5 dollars, and a like sum for every additional five miles
6 so completed, and so on till the whole line is finished
7 by the running of cars thereon, all said payments to
8 be made by the scrip of said city, payable to the holder
9 thereof in such sums as the directors of said road may
10 determine, with coupons for interest attached, payable
11 semi-annually, the principal payable in thirty years
12 from the date thereof, and all payable in Boston or
13 New York, and the same to be signed by the city
14 treasurer and countersigned by the mayor of said city.

SECT. 4. 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 said bond to be double the
6 amount of the scrip authorized to be issued at that
7 time ; said bond 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 bond respectively,
11 and also the principal thereof, according to the tenor
12 of the scrip, and in all respects will hold and save
13 harmless the said city on account of the issue of the
14 same ; the said president and directors of said com-
15 pany shall also, in case of the issuing of the scrip of
16 said city as provided in section two of this act, and
17 simultaneously therewith, make, execute and deliver
18 to the said city treasurer the scrip of said company
19 payable to the holder thereof, at the same time and for
20 the same amount as the scrip then issued by said treas-
21 urer to said company, with like coupons for the inter-
22 est attached ; which said scrip shall be held by said
23 city as collateral security for the fulfilment of the con-
24 ditions of the said bond ; and in default of any one of
25 said conditions, said city may from time to time sell
26 said scrip, or any portion thereof, by public auction or
27 auctions, in the cities of Bangor, Boston or New York,

28 or either of them, after sixty days' notice in writing
29 to the president, or one of the directors, or any three
30 of the stockholders of said company, naming therein
31 the time and place of sale. The net proceeds of all
32 such sales shall be endorsed on said bond.

SECT. 5. The president and directors of said compa-
2 ny are hereby authorized, and it shall be their duty,
3 in their official capacity, upon the receipt of said city
4 scrip and upon the delivery of their bond to said city
5 to secure the payment of the same, to execute and de-
6 liver to said city treasurer, a mortgage without prior
7 incumbrance, of their railroad from Milford or Oldtown
8 northward or westward into Piscataquis county, and
9 all of the property real and personal, including the
10 franchise thereof; said mortgage shall be executed
11 according to the laws of this state, and shall be in due
12 and legal form, and shall contain apt and sufficient
13 terms to secure the said city the fulfilment of the con-
14 ditions in said bond contained.

SECT. 6. 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 there-
6 of, which may be published in a newspaper printed in

7 Bangor, and a record thereof may be made within
8 thirty days after the date of the last publication in the
9 registry of deeds for the county of Penobscot, which
10 publication and record shall be sufficient for the pur-
11 pose of such foreclosure. Upon the expiration of three
12 years from and after such publication, if the condition
13 shall not within that time have been fulfilled, the fore-
14 closure shall be complete, and shall make the title to
15 said road, and to all the property and franchise afore-
16 said, absolute in said city.

SECT. 7. 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 possession in the manner hereinafter
8 provided of the whole of said railroad, and of all the
9 property real and personal of the company, and of the
10 franchise thereof, and may hold the same and apply
11 the income thereof to make up and supply such defi-
12 ciency, and all further deficiencies that may occur
13 while the same are so held, until such deficiencies shall
14 be fully made up and discharged. A written notice,
15 signed by the mayor and aldermen, and served upon

16 the president or treasurer, or any director of the com-
17 pany, or if there are none such, upon any stockholder
18 of the company, stating that the city thereby takes
19 actual possession of the whole line of the railroad, and
20 of the property and franchise of the company, shall be
21 a sufficient actual possession thereof, and shall be a
22 legal transfer of all the same, for the purposes afore-
23 said to the city, and shall enable the city to hold the
24 same against any other claims thereon until such pur-
25 poses have been fully accomplished.

SECT. 8. 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 effec-
9 tual discharge from all claims of the company there-
10 for ; but if any person, without such notice, shall make
11 payment 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 the
14 treasurer of the company, after such notice, or in his
15 hands at the time such notice may be given, shall be

16 by him paid to the city treasurer, after deducting the
17 amount expended, or actually due for the running ex-
18 penses 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 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,
27 and the same may be recovered in an action for money
28 had and received, in the name of the city treasurer,
29 whose duty it shall be to sue for the same, to be by
30 him held and applied as herein required.

SECT. 9. 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 su-
5 preme 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, in-
8 junction, account, or other relief under the provisions
9 of this act ; and any judge of the court may issue a
10 writ of injunction, or any other suitable process, on

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

SECT. 13. This act shall not take effect or be of any
2 force until the city council of said city by a concurrent
3 vote of at least two-thirds of the members of each
4 branch present and voting shall submit the same to a
5 vote of the people of the city, and the legal voters of
6 the city in legal ward meetings shall by a vote of two-
7 thirds of all the votes thrown in the city at such meet-
8 ings adopt the same. But if within one year from the
9 approval of this act the city shall accept this act by
10 such concurrent vote of the city council and of the cit-
11 izens as aforesaid, then the act shall be in force there-
12 after and be binding upon the city according to its true
13 tenor and effect but not otherwise.

SECT. 14. And whereas, the State of Maine by an
2 act entitled "An act to provide means for the defence
3 of the northeastern frontier," approved March twenty-
4 fourth, eighteen hundred and sixty-four, donated all
5 its lands lying in the county of Piscataquis to aid the
6 construction of a branch railway to the slate quarries
7 in the valley of the Pleasant river at Brownville, and
8 to the Katahdin Iron Works from any point on the line
9 between and including Oldtown and Lincoln; it is
10 hereby declared that the proceeds of said lands derived
11 from the sale of land and timber, or from the bonds se-
12 cured by mortgage of said lands, shall be applied by

13 said railway company to the building of said branch
14 railway as described in this act ; and all moneys, lands
15 or other securities applicable to the building of said
16 branch railway received from the claims of Maine and
17 Massachusetts upon the United States government shall
18 be applied to the building of said railway as described
19 in this act ; but before this section of this act shall be-
20 come binding upon the European and North American
21 Railway, it shall be accepted by said European and
22 North American Railway Company by a majority vote
23 of the stockholders thereof at a legal meeting to be
24 duly called for that purpose.

SECT. 15. This act shall take effect when approved
2 by the governor.

SECT. 16. That the "act to authorize the city of
2 Bangor to aid the construction of a railroad into Pis-
3 cataquis county," approved February twenty-eighth,
4 in the year of our Lord one thousand eight hundred
5 and sixty-seven, be and the same is hereby repealed.

SECT. 17. If the said company shall at any time
2 neglect or omit to pay the interests which may become
3 due upon any portion of the scrip issued and delivered
4 under the provisions of this act, or to pay the principal
5 as it shall become due, or to comply with any of the
6 provisions of said bonds, then said city of Bangor may

7 take actual possession of said road with all its appur-
8 tenances and to manage the same as fully as a board
9 of directors of said company for the time being, to
10 appoint the requisite officers and agents, and to dis-
11 charge the same, to fix the rate of fare and tolls, sub-
12 ject to the restrictions of the charter of said company;
13 and to demand and receive the same with the right to
14 prosecute and defend suits in the name of said com-
15 pany, and to do all things which said company itself,
16 or the directors thereof might or could lawfully do,
17 after paying the running expenses; said city may apply
18 sufficient of the earnings of said road to keep it, its
19 buildings and equipments in repair, and to prevent
20 any deterioration thereof and to provide for such new
21 rolling stock as may be necessary, and then to apply
22 the residue of said earnings to the payment of the in-
23 terest, coupons and scrip or bonds aforesaid; and
24 whenever said interest and all dishonored coupons,
25 scrip or bonds, secured by said mortgage, referred to
26 in this bill, shall have been paid, said city shall relin-
27 quish the control of said road and deliver any property
28 of said company in its possession to said company or
29 its assigns; *provided however*, said city, its officers or
30 agents while operating said road under the provisions
31 of this section, shall not be liable except for malfeas-

32 ance or fraud, and shall have the right to apply any
33 funds received from the earnings of said road in the
34 management of said road for which said city shall be
35 liable in land to third parties and the delivery back to
36 said company any property of said company in its pos-
37 session, shall be no discharge of its lien thereon, nor
38 prevent said city from again taking possession of said
39 road and property on any future breach of the condi-
40 tion of said bond.



STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
January 30, 1868. }

Reported from the Committee on Railroads, Ways and Bridges,
by Mr. THOMPSON of Bangor, and on his motion ordered to be
printed.

S. J. CHADBOURNE, *Clerk.*