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# FORTY-SEVENTH LEGISLATURE.

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HOUSE.

No. 82.

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## STATE OF MAINE.

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

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

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WHEREAS, two acts have heretofore been passed and  
2 are now in force, each authorizing the city of Bangor  
3 to loan its credit to the amount of five hundred thou-  
4 sand dollars to the European and North American  
5 Railway Company, in aid of the construction of their  
6 railroad ; now, for the purpose of consolidating said  
7 loans, rendering but one mortgage necessary for the  
8 security of said city and for other purposes,

*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, one million dollars,  
5 upon their compliance with the following terms and  
6 conditions :

SECT. 2. If this act shall be accepted as hereinafter  
2 provided, and said company shall, within one year  
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 Milford village, to the ap-  
6 proval of the mayor and aldermen for the time being,  
7 of the said city, as a first class railroad, and shall have  
8 acquired the right of way according to law, by pay-  
9 ment of awards and other land damages, or by a deposit  
10 of the amount thereof with the clerk of the courts, as  
11 by law required, then such fact shall be certified by  
12 said mayor and aldermen to the treasurer of said city,  
13 and he shall forthwith issue to the directors of said  
14 company, for the purpose of building and completing  
15 said road to Winn, the scrip of said city to the amount  
16 of one hundred and fifty thousand dollars ; and on the  
17 completion of said road in the direction of Winn to a  
18 point ten miles above Milford village, and payment of  
19 damages or deposit thereof by said company, as afore-  
20 said, and approval by the mayor and aldermen of said

21 city for the time being, they shall certify that fact to  
22 the city treasurer, who shall forthwith issue to the di-  
23 rectors of said company an additional sum of one hun-  
24 dred thousand dollars of the scrip of said city, for the  
25 purposes aforesaid; and on the completion of said road  
26 to Passadumkeag stream, and payment of damages, or  
27 deposit thereof by said company, as aforesaid, and ap-  
28 proval by the mayor and aldermen of said city for the  
29 time being, they shall certify that fact to the city  
30 treasurer, who shall forthwith issue to the directors of  
31 said company an additional sum of one hundred thou-  
32 sand dollars of the scrip of said city for the purposes  
33 aforesaid; and on the completion of said road to Lin-  
34 coln village, and payment of damages or deposit there-  
35 of by said company as aforesaid, and approval by the  
36 mayor and aldermen of said city for the time being,  
37 they shall certify that fact to the city treasurer, who  
38 shall forthwith issue to the directors of said company  
39 an additional sum of three hundred and fifty thousand  
40 dollars of the scrip of said city for the purposes afore-  
41 said; and on the completion of said railway to the  
42 tannery village or to a point near to the same in the  
43 town of Winn, opposite to the Five Islands in Penob-  
44 scot river, and payment of land damages or deposit  
45 thereof as aforesaid by said company, within two years

46 from the approval of this act, to the approval of the  
47 mayor and aldermen of said city for the time being,  
48 they shall certify that fact to the city treasurer, who  
49 shall forthwith issue to the directors of said company  
50 an additional sum of three hundred thousand dollars of  
51 the scrip of said city.

52 All of said scrip shall be signed by the city treas-  
53 urer and countersigned by the mayor for the time be-  
54 ing ; be issued in sums not less than one hundred dol-  
55 lars nor more than five thousand dollars each, with  
56 coupons for interest attached, payable semi-annually,  
57 payable to the holder thereof in Bangor, Boston or  
58 New York, the principal payable in twenty-five years  
59 from the date of the first issue of scrip under this act ;  
60 *provided* the whole amount of scrip issued under this  
61 act shall not exceed the sum of one million dollars ;  
62 and each issue of said scrip shall bear date of the cer-  
63 tificate of the mayor and aldermen to the city treas-  
64 urer, on the receipt of which he is authorized to issue  
65 the same, and all shall be secured by the bond and  
66 mortgage hereinafter mentioned, which shall be exe-  
67 cuted and delivered to the city treasurer on the first  
68 issue of said scrip.

SECT. 3. Concurrent with the first issue and deliv-  
2 ery of said scrip as aforesaid, the president and direc-

3 tors of said company, in their official capacity, shall  
4 execute and deliver or cause to be executed and de-  
5 livered to the said treasurer the bond of said company,  
6 the penal sum in said bond to be double the amount of  
7 scrip authorized to be issued by this act; said bond  
8 shall be made payable to said city, and shall be con-  
9 ditioned that said company will duly pay the interest  
10 on such scrip of said city as shall be issued under and  
11 by virtue of this act and also the principal thereof,  
12 according to the tenor of the scrip, and in all respects  
13 will hold and save harmless the said city on account  
14 of the issue of the same; the said president and direc-  
15 tors of said company shall also in case of the issuing of  
16 the scrip of said city as provided in section two of this  
17 act, and simultaneously therewith, make, execute and  
18 deliver, or cause to be made, executed and delivered  
19 to the said city treasurer, the scrip of said company,  
20 payable to the holder thereof, at the same time and for  
21 the same amount as the scrip then issued by said treas-  
22 urer to said company, with like coupons for the inter-  
23 est attached, which said scrip shall be held by said  
24 city as collateral security for the fulfilment of the con-  
25 ditions of the said bond; and in default of any one of  
26 said conditions, said city may from time to time sell  
27 said scrip, or any portion thereof, by public auction  
28 or auctions, in the cities of Bangor, Boston or New

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

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 or cause to be executed and  
7 delivered to the city treasurer, a mortgage of their  
8 railroad, from its terminus in Bangor to said Tannery  
9 village or near thereto in the town of Winn, to and  
10 including a depot and turn-table there, and all the  
11 land and personal property held and used by said com-  
12 pany for the construction and working of said road  
13 between said two points, with all the fixtures, appen-  
14 dages and appurtenances thereof, and the whole fran-  
15 chise of said company to the line of the state, without  
16 prior incumbrance, also all the rolling stock which  
17 shall be owned by said company on said road through  
18 its entire extent from Bangor to the east line of the  
19 state. *Provided however*, if said road shall be built by  
20 said company from said town of Winn to the east line  
21 of the state, and furnished and equipped with suffi-

22 cient rolling stock for operating the same, and the city  
23 of Bangor shall take possession of the mortgaged por-  
24 tion of said road under any provisions of this act.  
25 Then one-third of all the rolling stock of said company  
26 shall be released by said mortgagees and set out on  
27 demand of said company by the railroad commissioners  
28 for time being, who shall also determine upon the  
29 sufficiency of said stock as aforesaid. Said mortgage  
30 shall be executed according to the laws of this state,  
31 and shall be in due and legal form and contain apt and  
32 sufficient terms to secure the said city the fulfilment of  
33 all the conditions in said bond contained. Said bond  
34 and mortgage shall be recorded in the registry of  
35 deeds of the county of Penobscot, which shall be suffi-  
36 cient to protect the rights of said city, and no other  
37 recording shall be required.

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 prin-  
7 ted in Bangor, and a record thereof may be made  
8 within thirty days after the date of the last publication  
9 in the registry of deeds for the county of Penobscot,  
10 which publication and record shall be sufficient for the

11 purpose of such foreclosure. Upon the expiration of  
12 three years from and after such publication, if the con-  
13 dition of said mortgage shall not within that time have  
14 been fulfilled, the foreclosure shall be complete, and  
15 shall make the title to said franchise and to all the  
16 property covered by said mortgage absolute in said  
17 city. And said city, its successors and assigns, shall  
18 thereupon be constituted a company incorporated and  
19 chartered as of the day of the completion of the fore-  
20 closure, and shall have and possess all legal rights,  
21 powers and immunities which pertained to said origi-  
22 nal company at the time of said foreclosure, except so  
23 far as the exercise and enjoyment of the same may be  
24 necessary to the corporation for the convenient and  
25 profitable management and control of that part of said  
26 road not included in the mortgage to the city, which  
27 excepted rights, powers and immunities shall be  
28 retained by the said company or its assigns.

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 pay  
5 the principal as it shall become due, or to comply with  
6 any of the conditions of said bond, the city of Bangor  
7 may take actual possession in the manner hereinafter  
8 provided of said franchise and of that part of said



9 railroad and of all the property real and personal of  
10 the company which is covered by said mortgage, and  
11 may exercise all the rights, privileges and powers con-  
12 ferred on said company by its franchise, so far as the  
13 exercise and enjoyment of the same may be necessary  
14 to the convenient and profitable management and con-  
15 trol of that part of said road mortgaged to the city, not  
16 interfering, however, with the exercise and enjoyment  
17 by said company or its assigns of the like rights, priv-  
18 ileges and powers under said franchise in the working  
19 and management of that part of the road not mort-  
20 gaged to said city, and may hold the same and apply  
21 the income thereof to make up and supply such defi-  
22 ciency and all further deficiencies that may occur while  
23 the same are so held, until such deficiencies are fully  
24 made up and discharged. A written notice signed by  
25 the mayor and a majority of the aldermen of said city,  
26 and served upon the president or treasurer, or any di-  
27 rector of the company, or if there are none such, upon  
28 any stockholder of the company, stating that the city  
29 thereby takes actual possession of said franchise and of  
30 that part of the line of the railroad, and of all the  
31 property of said company, real and personal, which is  
32 covered by said mortgage, shall be a sufficient actual  
33 possession thereof, and shall be a legal transfer of all

34 the same, for the purposes aforesaid, to the city, and  
35 shall enable said city to hold the same, including all  
36 the fuel, oil and tools of said company covered by said  
37 mortgage, and all of said rolling stock, against any  
38 other claims thereon, until such purposes have been  
39 fully accomplished. *Provided however*, if said com-  
40 pany shall furnish and equip the whole line of said  
41 road, as provided in section four of this act, said city  
42 shall, after having taken possession of said rolling  
43 stock, set out one third part of the same to said com-  
44 pany on demand, as provided in said section four.

SECT. 7. Said city having taken possession of said  
2 mortgaged property in the manner and for the pur-  
3 poses provided in section six, shall have authority and  
4 power as fully as a board of directors of said company,  
5 for the time being, to take charge of and manage said  
6 road, to appoint the requisite officers and agents and  
7 to discharge the same, to fix the rate of fare and tolls,  
8 subject to the restrictions of the charter of said com-  
9 pany, and to demand and receive the same, with the  
10 right to prosecute and defend suits in the name of  
11 said company, and to do all things which said com-  
12 pany itself or the directors of said company might or  
13 could do ; and after paying the running expenses, may  
14 apply sufficient of the earnings of said road to keep it,  
15 its buildings and equipments in repair and to prevent

16 any deterioration thereof, and to provide for such new  
17 rolling stock as may be necessary, and then shall  
18 apply the residue of said earnings to the payment of  
19 the interest, coupons and scrip aforesaid ; and when-  
20 ever said interest and all dishonored coupons, scrip or  
21 bonds secured by said mortgage shall have been paid,  
22 said city shall relinquish the control of said road and  
23 deliver any property of said company in its possession  
24 to said company or its assigns. *Provided however,*  
25 said city, or its officers or agents, while operating said  
26 road, under the provisions of this section, shall not be  
27 liable except for malfeasance or fraud, and shall have  
28 the right to apply any proceeds received from the  
29 earnings of said road, to pay any damages that may or  
30 shall arise in the operating and managing of said road,  
31 for which said city shall be liable in law to third par-  
32 ties ; *and provided further,* in case any difficulty shall  
33 arise while said city is in possession of the mortgaged  
34 part of said road, with the company or its assigns who  
35 may be operating that part of the road not included in  
36 said mortgage to said city, as to times of running  
37 trains, as to making connections or the proper rate of  
38 dividing the through fare, or of running cars of one  
39 party over that section of the road operated by the  
40 other, then such difficulty shall be referred to and

41 settled by the railroad commissioners for the time  
42 being, upon whom is hereby conferred the same pow-  
43 ers in relation to the said two sections of this road  
44 which they would have by law if each of these two  
45 sections belonged to independent corporations.

SECT. 8. For the purposes 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, or 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 may  
15 be within the power and according to the course of  
16 proceedings of courts of equity, as the necessities of  
17 the case may require.

SECT. 9. After said city shall have taken possession  
2 of the mortgaged property and said franchise under  
3 and in accordance with the provisions of section six,

4 and while it shall be in the exercise of the power con-  
5 ferred upon it by the provisions of section seven, the  
6 exercise by the directors of the powers conferred upon  
7 them by the charter, or by-laws, shall be suspended so  
8 far as this, that any act of theirs, that shall hinder,  
9 obstruct or impede said city in the exercise of any of  
10 the powers conferred upon it by the provisions of sec-  
11 tions six and seven, shall, so far as said acts may hin-  
12 der, obstruct or impede, be void and of no effect, and  
13 the said city shall have the same right to exercise such  
14 powers as if no board of directors existed.

SECT. 10. Three fourths of the directors of said  
2 company shall be resident citizens of said city, and  
3 three of this number shall be appointed by the city  
4 council and shall be chosen annually by the city coun-  
5 cil in joint ballot before the annual meeting of said  
6 company for the choice of their officers, who shall have  
7 the same authority in transacting the business of said  
8 company, and who shall be entitled to like compensa-  
9 tion from the company as any other directors, but the  
10 right to choose such directors shall cease when the  
11 loan contemplated is extinguished.

SECT. 11. As an additional or cumulative 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 entire  
7 franchise of said company, and on all their railroad  
8 from its terminus in Bangor to and including their said  
9 depot and turn-table in the town of Winn, and all the  
10 land held and used by said company for the construc-  
11 tion and working of said road between said two points,  
12 with all its appendages and appurtenances thereof and  
13 all the personal property of said company, including  
14 all the fuel, oil, tools, and rolling-stock of said com-  
15 pany, between said two points, which lien shall have  
16 preference and be prior to all other liens and incum-  
17 brances on all of said road between said two points, and  
18 said franchise and all the aforesaid personal property of  
19 said company ; and said lien shall be enforced, and all  
20 the rights and interests of said city shall be protected  
21 when necessary by suitable and proper judgments, in-  
22 junctions or decrees of the supreme judicial court, on  
23 a bill or bills in equity, which power is hereby specially  
24 conferred on said court ; and it is hereby provided,  
25 that the said lien provided for in this section shall not be  
26 deemed waived or ineffectual by the acceptance of said  
27 city of any mortgage or other security contemplated  
28 by the provisions of this act or otherwise, and taking  
29 possession of said mortgaged property under any of the

30 provisions of this act, shall not be a waiver of the fore-  
31 closure of said mortgage.

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 said  
8 act take effect until the same shall be duly accepted  
9 by the city council of said city by concurrent vote of  
10 the two boards of said council, and by a majority of  
11 two-thirds of the aldermen present and voting, and a  
12 majority of two-thirds of the common council at a  
13 meeting duly called for the purpose, at least thirty  
14 days subsequent to its acceptance by vote of the city,  
15 as hereinbefore provided. The returns of such ward  
16 meetings shall be made to the aldermen of said city,  
17 and by them counted and declared, and the clerk of  
18 said city shall make a record thereof, and if the act  
19 shall be accepted as aforesaid, then after such accep-  
20 tance and record thereof all the parts of this act shall  
21 take effect and be in full force thereafter; and an act  
22 entitled "an act to authorize the city of Bangor to  
23 aid the construction of the European and North

24 American Railway," approved March twenty-five,  
25 eighteen hundred sixty-four, and an act entitled "an  
26 act to authorize the city of Bangor to further aid the  
27 construction of the European and North American  
28 Railway," approved February twenty, eighteen hun-  
29 dred sixty-six, shall be void and of no further effect.

SECT. 13. This act shall be in force on and after its  
2 approval by the governor.

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## STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }  
February 13, 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.*