

MAINE STATE LEGISLATURE

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FORTY-EIGHTH LEGISLATURE.

SENATE.

No. 50.

STATE OF MAINE.

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

AN ACT to authorize the city of Bangor to aid the construction of the Winterport railroad from Bangor to Winterport.

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 Winterport Railroad Company
3 in aid of the construction of their railroad from Bangor
4 to Winterport, to an amount not exceeding fifteen
5 thousand dollars per mile, nor more than three hun-
6 dred thousand dollars in all, upon its compliance with
7 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 tide
5 water in the village of Winterport, to the approval of
6 the mayor and aldermen of said city of Bangor, as a
7 first class railroad, so that cars may pass over the same
8 the whole distance, and shall perform the other condi-
9 tions hereinafter named, then the said company shall
10 be entitled to receive the full amount of fifteen thou-
11 sand dollars per mile, as herein provided.

SECT. 3. When said company shall complete five
2 miles of said railroad from its northern terminus, then
3 they shall be entitled to receive the sum of seventy-
4 five thousand dollars, and a like sum for every addi-
5 tional five miles so completed, and so on till the whole
6 line is finished by the running of cars thereon, all said
7 payments to be made by the scrip of said city, payable
8 to the holder thereof in such sums as the directors of
9 said road may determine, with coupons for interest
10 attached, payable semi-annually, the principal pay-
11 able in thirty years from the date thereof, and all
12 payable in Boston or New York, and the same to be
13 signed by the city treasurer and countersigned by the
14 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 execute
4 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
20 for 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 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 com-
2 pany 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 Bangor to Winter-
8 port, and all of the property, real and personal, includ-
9 ing the franchise thereof; said mortgage shall be
10 executed according to the laws of this state, and shall
11 be in due and legal form, and shall contain apt and
12 sufficient terms to secure the said city the fulfilment of
13 the conditions 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 fore-
5 closure of mortgages, by publication of notice thereof,
6 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 while
13 the same are so held, until such deficiencies shall be
14 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
4 be received, shall belong to, and be held for the use
5 and benefit of the city in manner and for the pur-
6 poses herein provided, and shall, after notice given to
7 persons receiving the same respectively, be by them
8 paid to the city treasurer, which payment shall be an
9 effectual discharge from all claims of the company
10 therefor; but if any person, without such notice,
11 shall make payment of moneys so received to the
12 treasurer of the company, such payment shall be a
13 discharge of all claims of the city therefor; all
14 moneys received by the treasurer of the company,
15 after such notice, or in his hands at the time such
16 notice may be given, shall be by him paid to the city
17 treasurer, after deducting the amount expended, or
18 actually due for the running expenses of the road,
19 for the services of the officers of the company, and
20 for repairs necessary for conducting the ordinary oper-
21 ations of the road. Such payments to the city treas-
22 urer shall be made at the end of every calendar

23 month, and shall be by him applied to the payment
24 of all the interest and principal due as aforesaid.
25 And any person who shall pay or apply any moneys
26 received as aforesaid, in any manner contrary to the
27 foregoing provisions, shall be liable therefor, and the
28 same may be recovered in an action for money had
29 and received, in the name of the city treasurer, whose
30 duty it shall be to sue for the same, to be by him held
31 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
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, 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
13 of 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 three of the direc-
2 tors of the said railroad company from among the
3 stockholders, providing the amount of loan does not
4 exceed two hundred thousand dollars, and should the
5 loan amount to three hundred thousand dollars, then
6 the city shall appoint four directors, who shall be
7 chosen annually by the city council in joint ballot, be-
8 fore the annual meeting of said company for the choice
9 of their officers, who shall have the same authority in
10 transacting the business of said company, and who
11 shall be entitled to like compensation from the com-
12 pany, as any other directors. But the right to choose
13 such directors shall cease when the loan contemplated
14 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, and all the other property of said railroad corpo-
12 ration; and said lien shall be enforced and all the
13 rights and interests of said city shall be protected
14 when necessary by suitable and proper judgments,
15 injunction or decrees or said supreme judicial court,
16 on a bill or bills in equity, which power is hereby
17 specially conferred on said court. *And it is hereby*
18 *provided*, that the said lien provided for in this section
19 shall not be deemed waived or ineffectual by the ac-
20 ceptance on the part of said city, of any mortgage or
21 other securities contemplated by the provisions of this
22 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 concur-
3 rent 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
11 citizens as aforesaid, then the act shall be in force
12 thereafter, and be binding upon the city according to
13 its true tenor and effect, but not otherwise.

SECT. 14. If the said company shall at any time
2 neglect or omit to pay the interest 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 princi-
5 pal as it shall become due, or to comply with any of
6 the provisions of said bonds, then said city of Bangor
7 may take actual possession of said road with all its
8 appurtenances, and to manage the same as fully as a
9 board of directors of said company for the time being,
10 to appoint the requisite officers and agents, and to
11 discharge the same, to fix the rate of fare and tolls,
12 subject to the restrictions of the charter of said com-
13 pany; and to demand and receive the same with the
14 right to prosecute and defend suits in the name of said
15 company, and to do all things which said company
16 itself, or the directors thereof might or could lawfully
17 do, after paying the running expenses; said city may
18 apply sufficient of the earnings of said road to keep

19 it, its buildings and equipments in repair, and to pre-
20 vent any deterioration thereof, and to provide for such
21 new rolling stock as may be necessary, and then to
22 apply the residue of said earnings to the payment of
23 the interest, coupons and scrip or bonds aforesaid ;
24 and 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 re-
27 linquish the control of said road and deliver any
28 property of said company in its possession to said com-
29 pany or its assigns ; *provided however*, said city, its
30 officers or agents while operating said road under the
31 provisions of this section, shall not be liable except for
32 malfeasance or fraud, and shall have the right to
33 apply any funds received from the earnings of said
34 road in the management of said road for which said
35 city shall be liable in land to third parties, and the
36 delivery back to said company of any property of said
37 company in its possession, shall be no discharge of its
38 lien thereon, nor prevent said city from again taking
39 possession of said road and property on any future
40 breach of the condition of said bond.

SECT. 15. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, March 4, 1869.

Reported by Mr. CUSHING, from the Committee on Railroads, Ways and Bridges, and on motion of the same Senator, laid on the table and ordered to be printed.

THOMAS P. CLEAVES, *Secretary.*