

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# FORTY-NINTH LEGISLATURE.

---

HOUSE.

No. 131.

---

---

## STATE OF MAINE.

---

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

---

---

AN ACT to authorize the city of Portland to aid the construction of the Portland and Rutland Railroad.

---

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

SECTION 1. The city of Portland is hereby authorized to loan its credit to the Portland and Rutland Railroad Company in aid of the construction of their railroad, upon its compliance with the terms and conditions following :

SECT. 2. If this act shall be accepted as hereinafter provided, and said company shall within two years from its approval locate its line, and shall within five years from its approval complete their railroad to the boundary line of New Hampshire, and thence to the line of the Boston, Concord and Montreal Railroad in

7 New Hampshire from Portland, or from some point on  
8 the line of the Portland and Rochester Railroad to the  
9 approval of the mayor and aldermen of the city of  
10 Portland as a first class railroad, so that cars may pass  
11 over the same the whole distance, and shall perform the  
12 other conditions hereinafter named, then the said com-  
13 pany shall be entitled to receive the full amount of  
14 twelve thousand dollars per mile, as hereinafter provi-  
15 ded, but not to exceed in any event the sum of one  
16 million of dollars.

SECT. 3. When said company shall complete the  
2 grading or road bed of twenty miles of said railroad  
3 from its eastern terminus or from the point of connect-  
4 ion with the line of the Portland and Rochester Rail-  
5 road as aforesaid ready for the laying of its track, they  
6 shall be entitled to receive a sum equal to ten thousand  
7 dollars per mile, of the scrip of said city, or two hun-  
8 dred thousand dollars, and a like sum of ten thousand  
9 dollars per mile for every additional mile so graded,  
10 and so on in like proportion till the whole is finished  
11 by the running of cars thereon to the west line of the  
12 state, and to the line of the Boston, Concord and Mon-  
13 treal Railroad in the state of New Hampshire, all said  
14 payments to be made by the scrip of said city, payable  
15 to the holder thereof in such sums as the directors of  
16 said railroad company may determine, with coupons for

17 interest attached payable semi-annually, the principal  
18 payable in thirty years from the date thereof, and all  
19 payable in Portland, Boston or New York, and the  
20 same to be signed by the city treasurer and counter-  
21 signed by the mayor of said city. The said sum of  
22 ten thousand dollars per mile in the scrip of said city  
23 so issued or the proceeds of the sale of the same to be  
24 applied to the laying the superstructure or track of said  
25 railroad, including the purchase of iron until said track  
26 is completed by the running of the cars thereon, and  
27 when twenty miles of track are completed as aforesaid  
28 additional bonds of said city of a like character shall  
29 be issued to said company at the rate of two thousand  
30 dollars per mile, the same or the proceeds thereof to  
31 be applied to the purchase of equipment or rolling  
32 stock for the use of said road, and a like sum of two  
33 thousand dollars per mile shall be issued for the pur-  
34 chase of rolling stock for each additional mile so built  
35 as aforesaid until said line is finished.

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 company  
15 shall also, in case of the issuing of the scrip of said  
16 city, as provided in section two of this act, and simul-  
17 taneously therewith, make, execute and deliver to the  
18 said city treasurer the scrip of said company payable  
19 to the holder thereof, at the same time and for the  
20 same amount as the scrip then issued by said treasurer  
21 to said company, with like coupons for the interest  
22 attached ; which said scrip shall be held by said city  
23 as 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 Portland, 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 said bond.

SECT. 5. The president and directors of said company are hereby authorized, and it shall be their duty in their official capacity, upon the receipt of said city scrip, and upon the delivery of their bond to said city to secure the payment of the same, to execute and deliver to said city treasurer, a mortgage without prior incumbrance, of their railroad, and all of the property, real and personal, including the franchise thereof; said mortgage shall be executed according to the laws of this state, and shall be in due and legal form, and shall contain apt and sufficient terms to secure the said city the fulfilment of the conditions in said bond contained.

SECT. 6. For the purpose of foreclosing said mortgage for conditions broken, it shall be sufficient for the said mayor and aldermen to give notice according to the mode prescribed in the revised statutes for the foreclosure of mortgages, by publication of notice thereof, which may be published in a newspaper printed in Portland, and a record thereof may be made within thirty days after the date of the last publication in the registry of deeds for the county of Cumberland, which publication and record shall be sufficient for the purpose of such foreclosure. Upon the expiration of three years from and after such publication, if 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 and  
16 franchises aforesaid, 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 may  
3 become due upon any portion of the scrip issued and  
4 delivered under the provisions of this act, or to pay the  
5 principal as it shall become due, or to comply with any  
6 of the conditions of said bonds, the city of Portland  
7 may take possession in the manner hereinafter pro-  
8 vided of the whole of said railroad, and of all the prop-  
9 erty, 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 de-  
12 ficiency, and all further deficiencies that may occur  
13 while the same are so held, until such deficiencies  
14 shall be fully made up and discharged. A written  
15 notice, signed by the mayor and aldermen, and served  
16 upon the president or treasurer, or any director of the  
17 company, or if there are none such, upon any stock-  
18 holder of the company, stating that the city thereby  
19 takes actual possession of the whole line of the rail-  
20 road, and of the property and franchise of the com-  
21 pany, 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. 8. All money received by or for the said rail-  
2 road 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 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  
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  
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 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 money 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 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 institu-  
4 ted in the name of the city of Portland in the supreme  
5 judicial court in the county of Cumberland, against  
6 said company, directors, or any other person, as may  
7 be necessary for the purpose of discovery, injunction  
8 account, or other reliefs under the provisions of this  
9 act; and any judge of the court may issue a writ of  
10 injunction, or any other suitable process on any such  
11 bill, in vacation or in term time with or without no-  
12 tice, and the court shall have jurisdiction of the sub-  
13 ject matter of such bill, and shall have such proceed-  
14 ings and make such orders and decrees as may be  
15 within the power and according to the course of pro-  
16 ceedings of courts of equity, as the necessity of the  
17 case may require.

SECT. 10. If the said railroad company shall, after  
2 notice of possession as aforesaid, neglect to choose di-  
3 rectors thereof or any other necessary officers, or none

4 such shall be found, the mayor and aldermen of the city  
5 shall appoint a board of directors consisting of not less  
6 than seven persons, or any other necessary officers, and  
7 the persons so appointed shall have all the power and  
8 authority of officers chosen or appointed under the pro-  
9 visions of the act establishing said company, and upon  
10 their acceptance such officers shall be subject to all the  
11 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 pensation from the company as any other directors.  
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, and all the other property of said railroad cor-  
12 poration, and said lien shall be enforced and all the  
13 rights and interests of said city shall be protected when  
14 necessary by suitable and proper judgments, injunc-  
15 tion or decrees of said supreme judicial court, on a bill  
16 or bills in equity, which power is hereby specially con-  
17 ferred on said court. And it is hereby provided, that  
18 the said lien provided for in this section shall not be  
19 deemed waived or ineffectual by the acceptance on the  
20 part of said city of any mortgage or other security con-  
21 templated by the provisions 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, shall submit the same to a vote of the people of  
4 the city, and the legal voters of the city in legal ward  
5 meetings shall by a vote of two-thirds of all the votes  
6 thrown in the city at such meetings adopt the same.  
7 But if within one year from the approval of this act the  
8 city shall accept this act by such concurrent vote of the  
9 city council and of the citizens as aforesaid, then the  
10 act shall be in force thereafter, and be binding upon  
11 the city according to its true tenor and effect, but not  
12 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 principal  
5 as it shall become due, or to comply with any of the  
6 provisions of said bonds, then said city of Portland  
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 it,  
19 its 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  
23 interest, 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 malefea-  
32 sance 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 of any property of said company in its  
37 possession, shall be no discharge of its lien thereon,  
38 nor prevent said city from again taking possession of  
39 said road and property on any future breach of the  
40 condition of said bond.

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

---

## STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }  
March 9, 1870. }

Reported by Mr. BROWN, from the Committee on Railroads,  
Ways and Bridges, and ordered to be printed.

S. J. CHADBOURNE, *Clerk.*