

# MAINE STATE LEGISLATURE

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# FORTY-NINTH LEGISLATURE.

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SENATE.

No. 18.

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## STATE OF MAINE.

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

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AN ACT to enable the city of Bangor to extend further aid to the Bangor and Piscataquis Railroad Company.

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*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 make a further loan of its credit, in scrip to be  
3 hereafter issued, to the Bangor and Piscataquis Rail-  
4 road Company, to aid in the completion and equipment  
5 of its railroad from Oldtown to Dover, and for other  
6 necessary purposes connected therewith, upon the fol-  
7 lowing terms and conditions, and not exceeding the  
8 sum of one hundred and twenty-five thousand dollars.

SECT. 2. If this act shall be accepted as hereinafter  
2 provided, whenever the directors of said company shall

3 from time to time, within one year from and after said  
4 acceptance, decide by their vote that it is for the  
5 interest of said company to receive a certain part of  
6 the scrip authorized to be issued for any of the above  
7 purposes, and the president of said company shall  
8 communicate said vote to the mayor and aldermen of  
9 said city, and request them, in writing, to issue and  
10 deliver to said company such part of said scrip as is  
11 required by said vote, then if said mayor and alder-  
12 men are satisfied that it will be for the interest of said  
13 company to receive a part of said scrip, authorized by  
14 this act to be used for any of said purposes, they shall  
15 thereupon certify that fact to the treasurer of said  
16 city, stating to him the amount of scrip to be issued  
17 and delivered at that time, and he shall forthwith  
18 issue and deliver to said company said scrip to said  
19 amount, and so on, till the whole amount of said scrip  
20 authorized by this act, shall, if necessary for said pur-  
21 poses, be delivered; said mayor and aldermen to  
22 decide whether the same be necessary. All of said  
23 scrip shall be signed by the city treasurer, and coun-  
24 tersigned by the mayor of said city, and shall bear  
25 date of the first issue thereof, and be made payable to  
26 the holder thereof in such sums as said directors may  
27 determine, with coupons for interest attached, reckoned  
28 at the rate of six per cent. per annum, payable semi-

29 annually, free of government tax, the principal paya-  
30 ble on the first day of April, in the year of our Lord  
31 one thousand eight hundred and ninety-nine, in  
32 Boston ; and be secured by the bond and mortgage of  
33 said company, hereinafter mentioned, which shall be  
34 executed and delivered to the city treasurer on the  
35 first issue of said delivery of any of said scrip.

SECT. 3. Concurrent with the first issue and de-  
2 livery of any part of said scrip as aforesaid, the  
3 President and Directors of said company, in their  
4 official capacity, shall execute and deliver, or cause to  
5 be executed and<sup>d</sup> delivered, to the Treasurer of said  
6 city, the bond of said company in the penal sum of  
7 double the amount of said city scrip authorized to be  
8 issued by this act ; said bond shall be made payable  
9 to said city, and shall be conditioned that said com-  
10 pany will duly pay the interest on such scrip of said  
11 city as shall be issued under and by virtue of this act,  
12 and said government tax, and also the principal there-  
13 of, according to the tenor of said scrip ; and in all  
14 respects will hold and save harmless said city on  
15 account of the issue of the same ; said president and  
16 directors shall also, in case of the issuing of said scrip  
17 of said city, as provided in section two of this act, and  
18 simultaneously therewith make, execute and deliver,  
19 or cause to be made, executed and delivered to said

20 city treasurer, the scrip of said company, payable to  
21 the holder thereof at the same time and for the same  
22 amount as the scrip then issued and delivered by said  
23 city treasurer to said company, with like coupons for  
24 interest attached, which scrip shall be held by said  
25 city as collateral security for the fulfillment of the con-  
26 ditions of said bond, and in default of any one of said  
27 conditions said city may, from time to time sell said  
28 scrip, or any portion thereof, by public auction or  
29 auctions, in the cities of Bangor, Boston, or New  
30 York, or either of them, after sixty days notice in  
31 writing to the president, one of the directors, or any  
32 three of the stockholders of said company, naming  
33 therein the time and place of sale. The net proceeds  
34 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 and delivery of said city scrip, and upon the  
5 delivery of said bond of said company to said city  
6 treasurer, to secure the payment of the same, to exe-  
7 cute and deliver, or cause to be executed and delivered  
8 to said city treasurer, a mortgage of said railroad, and  
9 of all the property of said company, real and personal,  
10 which said company then has, or may thereafter  
11 acquire, together with the franchise of said company,

12 without prior encumbrance, except as hereinafter men-  
13 tioned, which mortgage shall be in due and legal form,  
14 and executed according to the laws of this state, and  
15 contain apt and sufficient terms to secure to said city  
16 the fulfillment of all the conditions of said bond and  
17 said mortgage, so executed and delivered and recorded  
18 in the registry of deeds for the county of Penobscot,  
19 shall, to all intents and purposes, be and the same is  
20 hereby declared to be a full and complete transfer of  
21 said railroad, of all the property of said company, real  
22 and personal, then owned by said company or subse-  
23 quently to be acquired, wherever the same may be  
24 found or situated, and also of the franchise of said  
25 company, subject only to the conditions and exceptions  
26 contained in said mortgage. Said mortgage, property,  
27 real and personal, and said franchise, shall be subject  
28 to all mortgages heretofore given by said company to  
29 said city, and now existing, and also to one other mort-  
30 gage hereafter to be given by said company to said  
31 city, under and by virtue of the provisions of an act to  
32 authorize the city of Bangor to aid the construction of  
33 a railroad into Piscataquis county, passed February  
34 twelve, eighteen hundred and sixty-eight, and an act  
35 additional thereto, passed February eleven, eighteen  
36 hundred and sixty-nine, which mortgage said company  
37 reserves the right to give, on receiving the scrip of said

38 city, to which said company may hereafter be entitled  
39 agreeably to the provisions of said two acts, which  
40 mortgage, when executed and recorded agreeably to  
41 the provisions of said two acts, is to have priority to  
42 said mortgage executed and delivered under the pro-  
43 visions of this act; *provided however*, that said city  
44 shall at all times, whenever the mayor and aldermen  
45 may so decide, after the issue of any scrip contem-  
46 plated by this act, and before all the scrip thus issued  
47 shall be extinguished, have the right to take and hold  
48 possession of all the real and personal property of said  
49 company until said scrip shall be extinguished, subject  
50 only to the rights of said city under the mortgages  
51 hereinbefore mentioned, anything in this act to the  
52 contrary notwithstanding.

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 there-  
6 of, which may be published in a newspaper printed in  
7 Bangor, and a record thereof made within thirty days  
8 after the date of the last publication in the registry of  
9 deeds for the county of Penobscot, which publication  
10 and record shall be sufficient for the purpose of such  
11 foreclosure. Upon the expiration of three years from

12 and after such publications, if the condition shall not  
13 within that time have been fulfilled, the foreclosure  
14 shall be complete, and shall make the title to said  
15 road, and to all the said property, real and personal,  
16 and said franchise, absolute in said city. Said fore-  
17 closure shall not be considered as the foreclosure of  
18 any other mortgage now given, or hereafter to be  
19 given under said two acts, by said company to said  
20 city, nor shall any of the proceedings or remedies  
21 under, and by virtue of this act, in any way affect the  
22 rights and remedies of said city or of said company,  
23 under and by virtue of said other mortgages, and  
24 under and by virtue of said two acts.

SECT. 6. If the directors of said company shall at  
2 any time neglect or omit to pay the interest and said  
3 tax, which may become due upon any portion of the  
4 scrip issued and delivered under the provisions of this  
5 act, or to pay the principal as it becomes due, or to  
6 comply with any of the conditions of said bond, the  
7 city of Bangor may take possession in the manner  
8 hereinafter provided, of the whole of said railroad,  
9 and of all the property, real and personal, of said  
10 company, and of the franchise thereof, and may hold  
11 the same, and apply the income thereof to make up  
12 and supply such deficiencies that may occur while the  
13 same are so held, until all deficiencies shall be fully



14 made up and discharged. A written notice, signed  
15 by the mayor and aldermen, and served upon the  
16 president or treasurer, or any director of said com-  
17 pany, or, if there are none such, upon any stockholder  
18 of said 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 the same, for the purposes aforesaid,  
23 to the city, and shall enable the city to hold the same  
24 against any other claims thereon, except the claims of  
25 said city hereinbefore mentioned, until such purposes  
26 have been fully accomplished.

SECT. 7. All monies 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 the persons receiving the same, respectively be by  
8 them paid to the city treasurer, which payment shall  
9 be an effectual discharge from all claims of said com-  
10 pany therefor; but if any person without such notice  
11 shall make payment of monies so received to the  
12 treasurer of said company, such payment shall be a  
13 discharge of all claims of the city therefor, against

14 such person. All monies received by the treasurer of  
15 said company, after such notice, or in his hands at the  
16 time such notice may be given, shall be by him paid  
17 to the city treasurer, after deducting the amount ex-  
18 pended or actually due for the running expenses of the  
19 road, for the services of the officers of the company,  
20 and for repairs necessary for conducting the ordinary  
21 operations of the road. Such payments to the city  
22 treasurer shall be made at the end of every calender  
23 month, and shall be by him applied to the payment of  
24 all the interest and such tax, and principal due as afore-  
25 said, and any person who shall pay or apply any  
26 monies received as aforesaid in any manner contrary  
27 to the foregoing provisions, shall be liable therefor,  
28 and the same may be recovered in an action for money  
29 had and received in the name of the city treasurer,  
30 whose duty it shall be to sue for the same, to be by  
31 him held and applied as hereinafter 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 issue  
10 a writ of injunction or any other suitable process, or  
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 bills, 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. 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 deliv-  
4 ered under the provisions of this act, or to pay the  
5 principal thereof, as it shall become due, or said gov-  
6 ernment tax, or to comply with any of the provisions  
7 of said bond, then said city of Bangor may take  
8 actual possession of said road with all its appurten-  
9 ances, and manage the same as fully as a board of  
10 directors of said company for the time being, may  
11 appoint the requisite officers and agents, and discharge  
12 the same, may fix the rate of fare and tolls, subject  
13 to the restrictions of the charter of said company,  
14 and may demand and receive the same with the right  
15 to prosecute and defend suits in the name of said  
16 company, and may do all things which said company,

17 itself, or the directors thereof, might or could lawfully  
18 do, and after paying the running expenses, said city  
19 may apply sufficient of the earnings of said road to  
20 keep it and its buildings and equipment in repair,  
21 and to prevent any deterioration thereof, and to pro-  
22 vide for such new rolling stock as may be necessary,  
23 and then to apply the residue of said earnings to the  
24 payment of said interest, coupons, and scrip or bond  
25 as aforesaid, and government tax ; and whenever said  
26 interest, and all dishonored coupons, scrip or bonds,  
27 secured by said mortgage referred to in this act, shall  
28 have been paid, said city shall relinquish the control  
29 of said road, and deliver any property of said company  
30 in its possession to said company, or its assigns.  
31 *Provided however*, said city, its officers or agents,  
32 while operating said road under the provisions of this  
33 section, shall not be liable, except for malfeasance or  
34 fraud, and shall have the right to apply any funds  
35 received from the earnings of said road, to pay any  
36 damages that may arise in the management thereof,  
37 for which said city shall be liable in law to third  
38 parties ; and the delivery back to said company any  
39 property of said company in its possession, shall be no  
40 discharge of its lien thereon, nor prevent said city  
41 from again taking possession of said road and property  
42 on any future breach of the condition of said bond.

SECT. 10. If the said company shall after notice of  
2 possession, as aforesaid, neglect to choose directors,  
3 thereof, or other necessary officers, or none such shall  
4 be found, the mayor and aldermen of the city shall  
5 appoint a board of directors, consisting of not less  
6 than seven persons, or any other necessary officers,  
7 and the persons so appointed, shall have all the power  
8 and authority of officers chosen or appointed, under  
9 the provisions of the act establishing said company,  
10 and who shall, upon their acceptance of such offices,  
11 be subject to all the duties and liabilities thereof.

SECT. 11. As an additional or cumulative protec-  
2 tion for said city, all liabilities which by said city  
3 may be assumed or incurred under or by virtue of any  
4 of the provisions of this act, shall at the time, and by  
5 force thereof, and for the security, and payment of  
6 the same, create in favor of said city, a lien on the  
7 whole of said road, its franchise, and all its append-  
8 ages, and all real and personal property of said com-  
9 pany, which lien shall have preference, and be prior  
10 to all other liens and incumbrances whatever, except  
11 as hereinbefore excepted in behalf of said city, on  
12 all of said road, wherever the same is now, or may  
13 hereafter be located, and on said franchise, and on all  
14 other property real and personal of said company,  
15 and said lien shall be enforced and all the rights and

16 interests of said city shall be protected, when neces-  
17 sary, by suitable and proper judgments, injunctions,  
18 or decrees of the supreme judicial court in a bill or  
19 bills in equity which power is hereby especially con-  
20 ferred on said court; and it is hereby provided that  
21 the said lien provided for in this section shall not be  
22 deemed waived or ineffectual by the acceptance on  
23 the part of said city, of any mortgage or other se-  
24 curities contemplated by the provisions of this act or  
25 otherwise.

SECT. 12. The city may appoint under this act  
2 two directors of said company from among the stock-  
3 holders, who shall be annually chosen by the city  
4 council, in joint ballot before the annual meeting of  
5 said company for the choice of officers, who shall have  
6 the same authority in transacting the business of said  
7 company, and who shall be entitled to like compensa-  
8 tion from said company, as any other director. But  
9 the right to choose such director shall cease when the  
10 loan contemplated shall be extinguished.

SECT. 13. This act shall not take effect or be of  
2 any force until the city council of said city, by a con-  
3 current vote of at least two-thirds of the members of  
4 each branch of the city council, present, and voting,  
5 shall submit the same to a vote of the legal voters of  
6 the city, and the legal voters of the city in legal

7 ward meetings, shall, by a vote of two-thirds of all  
8 the votes thrown in the city at such meetings, adopt  
9 the same. But if within one year from the approval  
10 of this act, said city shall accept said act by such  
11 concurrent vote of said city council, and of said legal  
12 voters as aforesaid, then said act shall be in force  
13 thereafter, and be binding upon said city according  
14 to its true tenor and effect, but not otherwise. Said  
15 ward meetings shall be called, notified, held, returns  
16 made, declared and recorded, agreeably to the pro-  
17 visions of the city charter of said city for calling and  
18 holding ward meetings for the choice of city officers,  
19 and returns thereof.

SECT. 14. This act shall take effect when approved.

STATE OF MAINE.

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IN SENATE, February 11, 1870.

Reported by Mr. CUSHING of Waldo, and on his motion laid  
on the table and ordered to be printed.

SAMUEL W. LANE, *Secretary.*