

MAINE STATE LEGISLATURE

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FIFTY-FIRST LEGISLATURE.

HOUSE.

No. 66.

STATE OF MAINE.

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

AN ACT to authorize the city of Bangor to loan its credit to aid in the construction of the Northern Aroostook Railroad.

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 Northern Aroostook Railroad
3 Company in aid of the construction of its railroad, not
4 exceeding, however, one million of dollars, upon its
5 compliance with the following terms and conditions :

SECT. 2. If this act shall be accepted, as hereinafter
2 provided, and said company shall, within one year from
3 its approval, locate its main line of railroad, according
4 to the provisions of its charter, and finish and com-
5 plete its railroad, not including, however, its westerly

6 branch to Portage Lake, from some point on the line
7 of the European and North American Railway desig-
8 nated by its charter, thence northerly ten miles, and
9 furnish and equip the same in all respects, as a first
10 class railroad, to the approval of the mayor and alder-
11 men for the time being of the said city, of a gauge of
12 not less than three feet, and shall have acquired the
13 right of way according to law, by payment of awards
14 and other land damages, or by a deposit of the amount
15 thereof with the clerk of the courts, as by law re-
16 quired, then such fact shall be certified by said mayor
17 and aldermen to the treasurer of said city, and he shall
18 forthwith issue to the directors of said company the
19 scrip of said city to the amount of eighty thousand
20 dollars, and on the further like completion of an ad-
21 ditional ten miles of said road, and acquirement of the
22 right of way according to law, as aforesaid, the city
23 treasurer shall forthwith issue to the directors of said
24 company an additional sum of eighty thousand dollars
25 of the scrip of said city for the purposes aforesaid, and
26 so on for every additional ten miles of completed road
27 as aforesaid, with the other like conditions as afore-
28 said, the city treasurer shall forthwith issue to the
29 directors of said company an additional sum of eighty
30 thousand dollars of the scrip of said city, for the pur-
31 poses aforesaid, until the whole of said one million has

32 been issued. All of said scrip shall be signed by the
33 city treasurer and countersigned by the mayor for the
34 time being, and be issued in sums of not less than one
35 hundred dollars, nor more than five thousand each,
36 with coupons for interest at seven per cent. per annum
37 attached, payable semi-annually—payable to the hold-
38 er thereof, in lawful money of the United States, at
39 Bangor, Boston or New York, the principal payable
40 in twenty-five years from the date of the first issue of
41 scrip under this act; *provided*, the whole amount of
42 scrip issued under this act shall not exceed the sum
43 of one million dollars; and each issue of said scrip
44 shall bear date of the certificate of the mayor and
45 aldermen to the city treasurer, on the receipt of which
46 he is authorized to issue the same; and all the cou-
47 pons shall be payable at the respective dates at which
48 the coupons of the first issue shall be due; and all
49 shall be secured by the bond and mortgage hereinafter
50 mentioned, which shall be executed and delivered to
51 the city treasurer on the first issue of said scrip. But
52 before the construction of any ten mile section of said
53 railroad is commenced, the location thereof by actual
54 survey, together with accurate plans and profiles rep-
55 resenting the location and grades thereof, shall be
56 submitted to the mayor and aldermen for approval,
57 and be by them accepted; and such section shall be

58 built conformably thereto; *provided however*, that
59 the above requirement shall not prevent such minor
60 changes of grade or location as may become obviously
61 necessary in the actual construction of the same.

SECT. 3. Concurrent with the first issue and delivery
2 of said scrip as aforesaid, the president and directors
3 of said company, in their official capacity, shall exe-
4 cute and deliver, or cause to be executed and delivered,
5 to the said treasurer the bond of said company, the
6 penal sum in said bond to be double the amount of
7 scrip authorized to be issued by this act; said bonds
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 coupons and in
13 all respects will hold and save harmless the said city
14 on account of the issue of the same, and from all lia-
15 bilities of said city in any way arising from anything
16 done under this act; the said president and directors
17 of said company shall also, in case of the issuing of
18 the scrip of said city as provided in section two of this
19 act, and simultaneously therewith, make, execute and
20 deliver, or cause to be made, executed and delivered
21 to the said city treasurer, the scrip of said company,
22 payable to the holder thereof at the same time and

23 place and for the same denominations and amount as
24 the scrip then issued by said treasurer to said com-
25 pany, with like coupons for the interest attached,
26 which said scrip shall be held by said city as collateral
27 security for the fulfillment of the conditions of the said
28 bond ; and in default of any one of said conditions,
29 said city may from time to time sell said scrip, or any
30 portion thereof, by public auction or auctions, in the
31 cities of Bangor, Boston or New York, or either of
32 them, after sixty days notice in writing to the presi-
33 dent or one of the directors, or any three of the stock-
34 holders of said company, naming therein the time and
35 place of sale. The net proceeds of all such sales shall
36 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 its rail-
8 road, then and thereafter to be constructed, and of all
9 the land and other property held and used by said
10 company for the construction of said road, with all the
11 fixtures, appendages and appurtenances thereof, and
12 all the property, real or personal, which said company

13 then has or may thereafter acquire, and the franchise
14 of said company without prior incumbrance. Said
15 mortgage shall be executed according to the laws of
16 the state, by its president, or such officers of said com-
17 pany as said directors may by their vote direct ; and
18 shall be in due and legal form, and contain apt and
19 sufficient terms to secure the said city the fulfillment
20 of all the conditions in said bond contained. Said
21 bond and mortgage shall be recorded in the registry
22 of deeds of the county of Penobscot, which shall be
23 sufficient to protect the rights of said city, and no
24 other record shall be required ; and said mortgage, so
25 executed and delivered and recorded in the registry of
26 deeds in the county of Penobscot, shall, to all intents
27 and purposes be, and the same is hereby declared to
28 be, a full and complete transfer of said railroad, and
29 of all the property of said company, real and personal,
30 then owned, or subsequently acquired, wherever the
31 same may be found or situated, and also the franchises
32 of said company, with all its future additions and
33 amendments.

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
7 printed in Bangor, and a record thereof made within
8 thirty days after the date of the last publication, in
9 the registry of deeds for the county of Penobscot,
10 which publication and record shall be sufficient for the
11 purpose of such foreclosure ; and the certificate of the
12 register of deeds shall be prima facie evidence of such
13 notice and publication of foreclosure. Upon the ex-
14 piration of three years from and after such first pub-
15 lication, if the conditions shall not within that time
16 have been fulfilled, the foreclosure shall be complete,
17 and shall make the title to said road, and to all the
18 said property, and said franchise, absolute in said city,
19 and the right of redemption shall be forever foreclosed.

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 and as it becomes due upon any
4 portion of the scrip issued and delivered under the
5 provisions of this act, or to pay the principal as it be-
6 comes due, or to comply with any of the conditions of
7 said bond, the city of Bangor may take possession in
8 the manner hereinafter provided of the whole of said
9 railroad, and of all the property of said company, and
10 of the franchise thereof, and may hold the same, and
11 apply the income thereof to make up and supply such
12 deficiencies and expenses that may occur while the

13 same are so held, until all deficiencies and expenses
14 shall be fully made up and discharged. A written
15 notice signed by the mayor and a majority of the alder-
16 men, and served upon the president or treasurer, or
17 any director of said company, or, if there are none
18 such, upon any stockholder of said company, stating
19 that the city thereby takes actual possession of the
20 whole line of the railroad, and of the property and
21 franchise of the company, shall be a sufficient actual
22 possession thereof, and shall be a legal transfer of the
23 same, for the purposes aforesaid, to the city, and shall
24 enable the city to hold the same against any other
25 claims thereon, until such purposes have been fully
26 accomplished.

SECT. 7. 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 said city, in manner and for the purposes
6 herein provided, and shall, after notice given to the
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 said company
10 therefor; but if any person without such notice shall
11 make payment of moneys so received to the treasurer
12 of said company, such payment shall be a discharge of

13 all claims of the city therefor, against such person.
14 All moneys received by the treasurer of said 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 for
20 repairs necessary for conducting the ordinary opera-
21 tions of the road. Such payments to the city treasurer
22 shall be made at the end of every calendar month, and
23 shall be by him applied to the payment of all the in-
24 terest and principal due as aforesaid, and any person
25 who shall pay or apply any moneys received as afore-
26 said in any manner contrary to the foregoing provisions,
27 shall be liable therefor, and the same may be recov-
28 ered in an action for money had and received, in the
29 name of the city treasurer, whose duty it shall be to sue
30 for the same, to be by him held and applied as herein-
31 after 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 supreme
5 judicial court in the county of Penobscot, against said
6 company, directors, or any other person, as may be

7 necessary for the purpose of discovery, injunction,
8 account, or other relief, 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
12 notice, and the court shall have jurisdiction of the
13 subject matter of such suits, and shall have such pro-
14 ceedings 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 necessities of the
17 case may require.

SECT. 9. If said company shall, at any time, neglect
2 or omit to pay the interest which may become due,
3 and as it becomes due, upon any portion of the scrip
4 issued and delivered under the provisions of this act,
5 or to pay the principal thereof, as it shall become due,
6 or to comply with any of the provisions of said bond,
7 then said city of Bangor may take actual possession of
8 said road with all its appurtenances, and manage the
9 same as fully as a board of directors of said company
10 for the time being, may appoint the requisite officers
11 and agents, and discharge the same, may fix the rate
12 of fare and tolls, subject to the restrictions of the
13 charter of said company, and may demand and receive
14 the same, with the right to prosecute and defend suits
15 in the name of said company, and may do all things

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

42 taking possession of said road and property on any
43 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 than
6 seven persons, or any other necessary officers, and the
7 persons so appointed shall have all the power and au-
8 thority of officers chosen or appointed under the pro-
9 visions of the act establishing said company, and shall,
10 upon their acceptance of such offices, be subject to all
11 the duties and liabilities thereof, and shall be entitled
12 to a reasonable compensation for their services.

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 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 road, whensoever constructed, its franchise, and all its
8 appendages, and all real and personal property of said
9 company, then owned or thereafter acquired, which
10 lien shall have preference, and be prior to all other
11 liens and incumbrances whatever on all of said road,
12 wherever the same is now, or may hereafter be located,

13 and on said franchise, and on all other property, real
14 and personal, of said company, and said lien shall be
15 enforced and all the rights and interests of said city
16 shall be protected, when necessary, by suitable and
17 proper judgments, injunctions or decrees of the su-
18 preme judicial court in a suit or suits in equity, which
19 power is hereby specially conferred on said court ; and
20 it is hereby provided that the said lien provided for in
21 this section shall not be deemed waived or ineffectual
22 by the acceptance on the part of said city of any
23 mortgage or other securities contemplated by the pro-
24 visions of this act or otherwise.

SECT. 12. The city may appoint under this act, two
2 directors of said company, who shall not be required
3 to be stockholders, who shall be annually chosen by
4 the city council, in joint ballot, before the annual
5 meeting of said company for the choice of officers, or
6 as soon thereafter as may be convenient, who shall
7 have the same authority in transacting the business of
8 said company, and who shall be entitled to like com-
9 pensation from said company, as any other director.
10 But the right to choose such directors shall cease when
11 the loan contemplated shall be extinguished.

SECT. 13. This act shall not take effect or be of any
2 force unless the main line of said railroad shall be
3 located, and when built, shall be built within the towns

4 or townships in the first, second and third ranges west
5 from the east line of the State ; *provided, however,*
6 that said main line may be located and built over such
7 parts of townships numbered seven and eight in the
8 fourth range of said townships, as the mayor and alder-
9 men of the city of Bangor may approve, having reason-
10 able regard to the difficulties attending and the expense
11 of constructing the whole of said main line within said
12 beforenamed three ranges ; nor shall this act take
13 effect or be of any force, until the city council of said
14 city, by a concurrent vote of at least two-thirds of the
15 members of each branch of the city council, present
16 and voting, shall approve the same, and shall also sub-
17 mit the same to a vote of the legal voters of the city,
18 and the legal voters of the city in legal ward meetings,
19 shall, by a vote of two-thirds of all the votes thrown
20 in the city at such meetings, accept the same. But,
21 if within one year from the approval of this act, said
22 city shall accept said act by such concurrent vote of
23 said city council, and of said legal voters as aforesaid,
24 then said act shall be in force thereafter, and be bind-
25 ing upon said city according to its true tenor and
26 effect, but not otherwise. Said ward meetings shall
27 be called at such time or times as the mayor and
28 aldermen may appoint, and be notified, held, returns
29 made, declared and recorded, agreeably to the pro-

30 visions of the city charter of said city for calling and
31 holding ward meetings for the choice of city officers,
32 and returns thereof. But nothing in this act shall in
33 any manner authorize, or empower said city to issue
34 its scrip as aforesaid, for any part of said road con-
35 structed, at any time subsequent to the period now
36 fixed in the charter of said company for the completion
37 of said railroad, to wit: January first, eighteen hun-
38 dred and seventy-eight.

SECT. 14. Whenever either the Northern Aroostook
2 Railroad Company or the European and North Ameri-
3 can Railway Company shall be unable to agree with
4 the other company, in respect of the tariff and division
5 of receipts for the transportation of passengers and
6 freight passing in whole or in part over both roads,
7 either company may apply, in writing, to the chief
8 justice of the supreme judicial court of Maine for the
9 appointment of a board of three arbitrators, to examine,
10 hear, and determine all questions connected with said
11 tariff and division of receipts in dispute between said
12 companies. The chairman of said board shall be ap-
13 pointed by said chief justice of said court, one shall be
14 appointed by the governor of the State of Maine and
15 one by the mayor and aldermen of the city of Bangor.
16 A report of said board, or of a majority thereof, shall
17 be made to the supreme judicial court sitting in Penob-

18 scot county, as soon as may be, and said court shall
19 cause reasonable notice to be given to each party, and
20 may accept or recommit said report, for cause shown to
21 it, and, when accepted, the determination of a majority
22 of said board shall be final and binding upon both com-
23 panies for one year from its acceptance and until a
24 new application shall be made by one or both, after
25 the expiration of said year. Said board may de-
26 termine how the expense and cost of all proceedings
27 under this section shall be borne, and said supreme
28 judicial court may enter judgment and issue execution
29 for the payment of costs when necessary.

SECT. 15. If said railroad company shall construct
2 its railroad from some point on the line of the Euro-
3 pean and North American Railway, which shall be
4 within one mile of the bridge near Mattawamkeag
5 point, and thence up the Penobscot river bank to
6 Nickatou or Salmon stream, and thence to Smyrna on
7 a line to be approved by the mayor and aldermen of
8 the city of Bangor, the foregoing provisions of this act
9 shall be construed to permit the loan of the credit of
10 said city in aid of its construction on said before de-
11 scribed line from Mattamamkeag bridge aforesaid to
12 Smyrna, to the amount of, and not exceeding, one
13 million and five hundred thousand dollars, and at the
14 rate of one hundred thousand dollars per section of ten

15 miles of said railroad, and all the provisions and con-
16 ditions contained in this act, excepting the amount of
17 said loan and the rate per section of ten miles as
18 aforesaid, shall apply and be in full force and effect in
19 respect of the loan authorized by the provisions of this
20 section; *provided*, that before this act shall be sub-
21 mitted to a vote of the legal voters of said city, as
22 before provided, the city council of Bangor shall deter-
23 mine by a concurrent vote of both boards, whether
24 said Northern Aroostook Railroad shall be constructed
25 from a point on the line of the European and North
26 American Railway, which shall be within one mile of
27 the bridge near Mattawamkeag point, and thence to
28 Smyrna, and the northern part of the easterly ranges
29 of townships in Aroostook county, by the way of
30 Salmon stream or Nickatou, with the conditions and
31 aid in this section provided, or from some other point
32 on said line with the aid as provided in first and
33 second sections of this act. And this act shall take
34 effect and be binding upon said city and said railroad
35 company according to the determination aforesaid of
36 said city council, if accepted by said legal voters in
37 manner aforesaid.

SECT. 16. This act shall take effect when approved
2 by the governor.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
February 14, 1872. }

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

S. J. CHADBOURNE, *Clerk.*