

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

FIFTY-FIRST LEGISLATURE

OF THE

STATE OF MAINE.

1872.

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1872.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1872.

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**Chapter 176.****CHAP. 176.**

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 :*

SECT. 1. The city of Bangor is hereby authorized to loan its credit to the Northern Aroostook Railroad Company in aid of the construction of its railroad, not exceeding, however, one million of dollars, upon its compliance with the following terms and conditions :

Bangor authorized to loan credit to Northern Aroostook R. R. Co.

SECT. 2. If this act shall be accepted, as hereinafter provided, and said company shall, within one year from its approval, locate its main line of railroad, according to the provisions of its charter, and finish and complete its railroad, not including, however, its westerly branch to Portage lake, from some point on the line of the European and North American Railway designated by its charter, thence northerly ten miles, and furnish and equip the same in all respects, as a first-class railroad, to the approval of the mayor and aldermen for the time being of the said city, of a gauge of not less than three feet, and shall have acquired the right of way according to law, by payment of awards and other land damages, or by a deposit of the amount thereof with the clerk of the courts, as by law required, then such fact shall be certified by said mayor and aldermen to the treasurer of said city, and he shall forthwith issue to the directors of said company the scrip of said city to the amount of eighty thousand dollars, and on the further like completion of an additional ten miles of said road, and acquirement of the right of way according to law, as aforesaid, the city treasurer shall forthwith issue to the directors of said company an additional sum of eighty thousand dollars of the scrip of said city for the purposes aforesaid, and so on for every additional ten miles of completed road as aforesaid, with the other like conditions as aforesaid, the city treasurer shall forthwith issue to the directors of said company an additional sum of eighty thousand dollars of the scrip of said city, for the purposes aforesaid, until the whole of said one million has been issued. All of said scrip shall be signed by the city treasurer and countersigned by the mayor for the time being, and be issued in sums of not less than one hundred dollars, nor more than five thousand dollars each, with coupons for interest at seven per cent. per annum attached, payable semi-annually, payable to the holder thereof, in lawful money of the United States, at Bangor, Boston or New York, the principal payable in twenty-five years from the date of the first issue of scrip under this act ; *provided*, the whole amount of scrip issued under this act shall not exceed the sum of one million dollars ; and each

Conditions to be complied with by company.

Scrip may be issued for \$80,000 on completion of 10 miles of road.

Scrip to the amount of \$80,000 to be issued for every additional 10 miles of road completed.

Scrip, how signed and issued.

Coupons and interest, when paid.

Principal, when paid.

Proviso.  
Scrip not to exceed \$1,000,000.

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Date of scrip.

Scrip and coupons, payment secured.

Location, &amp;c., to be accepted by mayor and aldermen.

Proviso.

Bond of company.

Penal sum in bond.

Bonds, condition of.

Scrip of company to be delivered to city as collateral security for payment of bond.

City may sell scrip of company in case of default.

Notice of sale, how given.

Proceeds of sale of scrip, how applied.

issue of said scrip shall bear date of the certificate of the mayor and aldermen to the city treasurer, on the receipt of which he is authorized to issue the same; and all the coupons shall be payable at the respective dates at which the coupons of the first issue shall be due; and all shall be secured by the bond and mortgage hereinafter mentioned, which shall be executed and delivered to the city treasurer on the first issue of said scrip. But before the construction of any ten mile section of said railroad is commenced, the location thereof by actual survey, together with accurate plans and profiles representing the location and grades thereof, shall be submitted to the mayor and aldermen for approval, and be by them accepted; and such section shall be built conformably thereto; *provided however*, that the above requirements shall not prevent such minor changes of grade or location as may become obviously necessary in the actual construction of the same.

SECT. 3. Concurrent with the first issue and delivery of said scrip as aforesaid, the president and directors of said company, in their official capacity, shall execute and deliver, or cause to be executed and delivered, to the said treasurer, the bond of said company, the penal sum in said bond to be double the amount of scrip authorized to be issued by this act; said bonds shall be made payable to said city, and shall be conditioned that said company will duly pay the interest on such scrip of said city as shall be issued under and by virtue of this act, and also the principal thereof, according to the tenor of the scrip and coupons and in all respects will hold and save harmless the said city on account of the issue of the same, and from all liabilities of said city in any way arising from anything done under this act; the said president and directors of said company shall also, in case of the issuing of the scrip of said city as provided in section two of this act, and simultaneously therewith, make, execute and deliver, or cause to be made, executed and delivered to the said city treasurer, the scrip of said company, payable to the holder thereof at the same time and place and for the same denominations and amount as the scrip then issued by said treasurer to said company, with like coupons for the interest attached, which said scrip shall be held by said city as collateral security for the fulfilment of the conditions of the said bond; and in default of any one of said conditions said city may from time to time sell said scrip, or any portion thereof, by public auction or auctions, in the cities of Bangor, Boston or New York, or either of them, after sixty days notice in writing to the president or one of the directors, or any three of the stockholders of said company, naming therein the time and place of sale. The net proceeds of all such sales shall be endorsed on said bond.

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Mortgage of road.

SECT. 4. The president and directors of said company are hereby authorized, and it shall be their duty, in their official capacity, upon the receipt of the first issue 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, or cause to be executed and delivered, to the city treasurer, a mortgage of its railroad, then and thereafter to be constructed, and of all the land and other property held and used by said company for the construction of said road, with all the fixtures, appendages and appurtenances thereof, and all the property, real or personal, which said company then has or may thereafter acquire, and the franchise of said company without prior incumbrance. Said mortgage shall be executed according to the laws of the state, by its president or such officers of said company as said directors may by their vote direct; and shall be in due and legal form, and contain apt and sufficient terms to secure the said city the fulfilment of all the conditions in said bond contained. Said bond and mortgage shall be recorded in the registry of deeds of the county of Penobscot, which shall be sufficient to protect the rights of said city, and no other record shall be required; and said mortgage, so executed and delivered and recorded in the registry of deeds in the county of Penobscot, shall, to all intents and purposes be, and the same is hereby declared to be, a full and complete transfer of said railroad, and of all the property of said company, real and personal, then owned, or subsequently acquired, wherever the same may be found or situated, and also the franchises of said company, with all its future additions and amendments.

Mortgage, how executed.

Bond and mortgage to be recorded in registry of deeds.

Mortgage to be considered as complete transfer of road.

SECT. 5. 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 Bangor, and a record thereof made within thirty days after the date of the last publication, in the registry of deeds for the county of Penobscot, which publication and record shall be sufficient for the purpose of such foreclosure; and the certificate of the register of deeds shall be prima facie evidence of such notice and publication of foreclosure. Upon the expiration of three years from and after such first publication, if the conditions shall not within that time have been fulfilled, the foreclosure shall be complete, and shall make the title to said road, and to all the said property, and said franchise, absolute in said city, and the right of redemption shall be forever foreclosed.

Mortgage, how foreclosed.

Notice of foreclosure.

Foreclosure to be complete in three years.

SECT. 6. If the directors of said company shall at any time neglect or omit to pay the interest, which may become due and as it becomes due upon any portion of the scrip issued and delivered

If company fail to pay principal and interest when

**CHAP. 176.**

due, city may take possession of road.

Possession of road, how taken.

Moneys received after notice, shall belong to the city.

Moneys paid to city treasurer to bar the claims of company against same.

Moneys received by treasurer of company to be paid to city.

Payments, when made and how applied.

Liability for neglect.

Writ of injunction may issue.

under the provisions of this act, or to pay the principal as it becomes due, or to comply with any of the conditions of said bond, the city of Bangor may take possession in the manner hereinafter provided of the whole of said railroad, and of all the property of said company, and of the franchise thereof, and may hold the same and apply the income thereof to make up and supply such deficiencies and expenses that may occur while the same are so held, until all deficiencies and expenses shall be fully made up and discharged. A written notice signed by the mayor and a majority of the aldermen, and served upon the president or treasurer, or any director of said company, or, if there are none such, upon any stockholder of said company, stating that the city thereby takes actual possession of the whole line of the railroad and of the property and franchise of the company, shall be a sufficient actual possession thereof, and shall be a legal transfer of the same for the purposes aforesaid, to the city, and shall enable the city to hold the same against any other claims thereon, until such purposes have been fully accomplished.

SECT. 7. All moneys received by or for the said railroad company after notice as aforesaid, from any source whatever, and by whomsoever the same may be received, shall belong to and be held for the use and benefit of said city, in manner and for the purposes herein provided, and shall, after notice given to the persons receiving the same, respectively be by them paid to the city treasurer, which payment shall be an effectual discharge from all claims of said company therefor; but if any person without such notice shall make payment of moneys so received to the treasurer of said company, such payment shall be a discharge of all claims of the city therefor, against such person. All moneys received by the treasurer of said company after such notice, or in his hands at the time such notice may be given, shall be by him paid to the city treasurer, after deducting the amount expended or actually due for the running expenses of the road, for the services of the officers of the company and for repairs necessary for conducting the ordinary operations of the road. Such payments to the city treasurer shall be made at the end of every calendar month, and shall be by him applied to the payment of all the interest and principal due as aforesaid, and any person who shall pay or apply any moneys received as aforesaid in any manner contrary to the foregoing provisions, shall be liable therefor, and the same may be recovered in an action for money had and received, in the name of the city treasurer, whose duty it shall be to sue for the same, to be by him held and applied as hereinafter required.

SECT. 8. For the purpose of effecting the objects prescribed in the two preceding sections, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city of Bangor,

in the supreme judicial court in the county of Penobscot, against said company, directors or any other person, as may be necessary for the purpose of discovery, injunction, account or other relief, under the provisions of this act; and any judge of the court may issue a writ of injunction or any other suitable process, on any such bill in vacation or in term time, with or without notice, and the court shall have jurisdiction of the subject matter of such suits, and shall have such proceedings and make such orders and decrees as may be within the power and according to the course of proceedings of courts of equity, as the necessities of the case may require.

SECT. 9. If said company shall at any time neglect or omit to pay the interest which may become due and as it becomes due, upon any portion of the scrip issued and delivered under the provisions of this act, or to pay the principal thereof, as it shall become due, or to comply with any of the provisions of said bond, then said city of Bangor may take actual possession of said road with all its appurtenances, and manage the same as fully as a board of directors of said company for the time being, may appoint the requisite officers and agents and discharge the same, may fix the rate of fare and tolls, subject to the restrictions of the charter of said company, and may demand and receive the same, with the right to prosecute and defend suits in the name of said company, and may do all things which said company itself, or the directors thereof, might or could lawfully do, and after paying the running expenses, said city may apply sufficient of the earnings of said road to keep it and its buildings and equipment in repair, and to prevent any deterioration thereof, and to provide for such new rolling stock as may be necessary and then apply the residue of said earnings, first, to the payment of all expenses and liabilities of said city in taking possession and managing said road; and secondly, to the payment of said interest, coupons, scrip or bond as aforesaid; and whenever said interest and all dishonored coupons, scrip or bonds, secured by said mortgage referred to in this act, shall have been paid, said city shall relinquish the control of said road and deliver any property of said company in its possession to said company or its assigns; *provided however*, said city, its officers or agents, while operating said road under the provisions of this section, shall not be liable, except for malfeasance or fraud, and shall have the right to apply any funds received from the earnings of said road to pay any damages that may arise in the management thereof, for which said city shall be liable in law to third parties; and the delivery back to said company of any property of said company in its possession, shall be no discharge of its lien thereon, nor prevent said city from taking

Company failing to comply with provisions of bond, city may take possession of road.

Earnings of road, how applied.

First.

Second.

Proviso.

Delivery back of property to company no discharge of lien.



**CHAP. 176.** possession of said road and property on any future breach of the condition of said bond.

In case of neglect of company to choose directors, mayor and aldermen of city may appoint directors.

**SECT. 10.** If the said company shall after notice of possession as aforesaid, neglect to choose directors thereof, or other necessary officers, or none such shall be found, the mayor and aldermen of the city shall appoint a board of directors, consisting of not less than seven persons, or any other necessary officers, and the persons so appointed shall have all the power and authority of officers chosen or appointed under the provisions of the act establishing said company, and shall, upon their acceptance of such offices, be subject to all the duties and liabilities thereof, and shall be entitled to a reasonable compensation for their services.

Lien created on road as additional protection to city.

**SECT. 11.** As an additional or cumulative protection for said city, all liabilities which by said city may be assumed or incurred under or by virtue of any of the provisions of this act, shall at the time, and by force thereof, and for the security and payment of the same, create in favor of said city a lien on the whole of said road, whensoever constructed, its franchise, and all its appendages, and all real and personal property of said company, then owned or thereafter acquired, which lien shall have preference, and be prior to all other liens and incumbrances whatever on all of said road, wherever the same is now, or may hereafter be located, and on said franchise, and on all other property, real and personal, of said company, and said lien shall be enforced and all the rights and interests of said city shall be protected, when necessary, by suitable and proper judgments, injunctions or decrees of the supreme judicial court in a suit or suits in equity, which power is hereby specially conferred on said court; and it is hereby provided that the said lien provided for in this section shall not be deemed waived or ineffectual by the acceptance on the part of said city of any mortgage or other securities contemplated by the provisions of this act or otherwise.

Lien not affected by mortgage.

City may appoint two directors.

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

Right to choose directors to cease when loan is extinguished.

Act not to take effect except under certain conditions.

**SECT. 13.** This act shall not take effect or be of any force unless the main line of said railroad shall be located, and when built, shall be built within the towns or townships in the first, second and third ranges west from the east line of the state; *provided*

however, that said main line may be located and built over such parts of townships numbered seven and eight in the fourth range of said townships, as the mayor and aldermen of the city of Bangor may approve, having reasonable regard to the difficulties attending and the expense of constructing the whole of said main line within said before named three ranges; nor shall this act take effect or be of any force, until the city council of said city, by a concurrent vote of at least two-thirds of the members of each branch of the city council, present and voting, shall approve the same, and shall also submit the same to a vote of the legal voters of the city, and the legal voters of the city in legal ward meetings, shall, by a vote of two-thirds of all the votes thrown in the city at such meetings, accept the same. But, if within one year from the approval of this act, said city shall accept said act by such concurrent vote of said city council, and of said legal voters as aforesaid, then said act shall be in force thereafter, and be binding upon said city according to its true tenor and effect, but not otherwise. Said ward meetings shall be called at such time or times as the mayor and aldermen may appoint, and be notified, held, returns made, declared and recorded, agreeably to the provisions of the city charter of said city for calling and holding ward meetings for the choice of city officers, and returns thereof. But nothing in this act shall in any manner authorize or empower said city to issue its scrip as aforesaid, for any part of said road constructed, at any time subsequent to the period now fixed in the charter of said company for the completion of said railroad, to wit: January first, eighteen hundred and seventy-eight.

SECT. 14. Whenever either the Northern Aroostook Railroad Company or the European and North American Railway Company shall be unable to agree with the other company, in respect of the tariff and division of receipts for the transportation of passengers and freight passing in whole or in part over both roads, either company may apply, in writing, to the chief justice of the supreme judicial court of Maine for the appointment of a board of three arbitrators, to examine, hear and determine all questions connected with said tariff and division of receipts in dispute between said companies. The chairman of said board shall be appointed by said chief justice of said court, one shall be appointed by the governor of the State of Maine and one by the mayor and aldermen of the city of Bangor. A report of said board, or of a majority thereof, shall be made to the supreme judicial court sitting in Penobscot county, as soon as may be, and said court shall cause reasonable notice to be given to each party, and may accept or recommit said report, for cause shown to it, and, when accepted, the determination of a majority of said board shall be final and

Proviso.

Subject to the approval of city of Bangor.

If act be accepted by city of Bangor within one year, then it is to be in force.

Ward meetings, how called.

Scrip not to be issued prior to Jan. 1st, 1878.

Disagreements between this and connecting roads, how adjusted.

Arbitrators to report to supreme court.

Report, when accepted, to be binding for one year.

## CHAP. 176.

Cost and expense  
of board, how  
paid.

City authorized  
to loan its credit  
at the rate of  
\$100,000 per sec-  
tion of 10 miles on  
certain condi-  
tions.

Proviso.

City council of  
Bangor to deter-  
mine the route of  
the road.

Act, when to take  
effect.

binding upon both companies for one year from its acceptance and until a new application shall be made by one or both, after the expiration of said year. Said board may determine how the expense and cost of all proceedings under this section shall be borne, and said supreme judicial court may enter judgment and issue execution for the payment of costs when necessary.

SECT. 15. If said railroad company shall construct its railroad from some point on the line of the European and North American Railway, which shall be within one mile of the bridge near Mattawamkeag point, and thence up the Penobscot river bank to Nickatou or Salmon stream, and thence to Smyrna on a line to be approved by the mayor and aldermen of the city of Bangor, the foregoing provisions of this act shall be construed to permit the loan of the credit of said city in aid of its construction on said before described line from Mattawamkeag bridge aforesaid to Smyrna, to the amount of, and not exceeding, one million and five hundred thousand dollars, and at the rate of one hundred thousand dollars per section of ten miles of said railroad, and all the provisions and conditions contained in this act, excepting the amount of said loan and the rate per section of ten miles as aforesaid, shall apply and be in full force and effect in respect of the loan authorized by the provisions of this section; *provided*, that before this act shall be submitted to a vote of the legal voters of said city, as before provided, the city council of Bangor shall determine by a concurrent vote of both boards, whether said Northern Aroostook Railroad shall be constructed from a point on the line of the European and North American Railway, which shall be within one mile of the bridge near Mattawamkeag point, and thence to Smyrna, and the northern part of the easterly ranges of townships in Aroostook county, by the way of Salmon stream or Nickatou, with the conditions and aid in this section provided, or from some other point on said line with the aid as provided in first and second sections of this act. And this act shall take effect and be binding upon said city and said railroad company according to the determination aforesaid of said city council, if accepted by said legal voters in manner aforesaid.

SECT. 16. This act shall take effect when approved.

Approved February 29, 1872.