

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE.

1861.



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1861.

FORTIETH LEGISLATURE.

HOUSE.

No. 44.

STATE OF MAINE.

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

AN ACT to authorize certain towns and the city of Bangor
to aid in the construction of the Bangor & Piscataquis
Railroad.

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

SECTION 1. The city of Bangor, and the towns of
2 Brownville, Milo, Atkinson, Sebec, Dover and Fox-
3 croft, and each of them, or so many of them as shall
4 accept this act, are severally authorized to loan their
5 respective credit to the Bangor and Piscataquis Rail-
6 road Company, for the construction and completion of
7 their railroad, in amounts as follows, viz: The city
8 of Bangor, three hundred and sixty thousand dollars ;

9 the town of Brownville, twenty thousand dollars ; the
10 town of Milo, ten thousand dollars ; the town of At-
11 kinson, five thousand dollars ; the town of Sebec, five
12 thousand dollars ; the town of Dover, twenty thou-
13 sand dollars ; and the town of Foxcroft, fifteen thou-
14 sand dollars ; subject to the following terms and
15 conditions.

SECT. 2. If this act shall be accepted, as hereinafter
2 provided, and said company shall, within two years
3 from its approval, produce evidence satisfactory to the
4 mayor and aldermen of said city of Bangor for the
5 time being, that the sum of fifty thousand dollars has
6 been subscribed to the stock of said company, to be
7 expended in the construction of their road, and the
8 purchase of the right of way, then such fact shall be
9 certified by the mayor and aldermen to the city treas-
10 urer, and he shall forthwith issue to the directors of
11 said company, for the purpose of completing said road,
12 the scrip of said city, payable to the holders thereof,
13 at the expiration of thirty years from the date thereof,
14 at the rate of twelve thousand dollars per mile, not to
15 exceed said sum of three hundred and sixty thousand
16 dollars, with coupons for interest attached, payable semi-
17 annually : *provided, however,* that the whole amount
18 of said scrip shall not exceed the sum of three hun-

19 dred and sixty thousand dollars, to be issued by said
20 city of Bangor, as aforesaid; and *provided, further,*
21 that said scrip may be subdivided and issued in lieu
22 thereof for such sum as the parties may deem expedi-
23 ent; and sixty thousand dollars of said scrip may be
24 issued on the completion of five miles of said road,
25 and sixty thousand dollars more on the completion of
26 each additional five miles, from its point of departure
27 towards Brownville, till the whole sum is expended;
28 to be applied to the construction of its line between
29 Brownville and its southern terminus.

SECT. 3. If said company shall, within three years
2 from its approval of this act, produce evidence satis-
3 factory to the selectmen of said towns for the time
4 being, that the further sum of ten thousand dollars
5 has been subscribed to the stock of said company, to
6 be expended in the construction of their road and
7 branch, and the purchase of the right of way, then
8 such fact shall be certified by said selectmen to the
9 treasurers of said towns, and they shall forthwith issue
10 to the directors of said company, for the purpose of
11 completing said road, the scrip of said towns, payable
12 to the holders thereof at the expiration of thirty years
13 from the date thereof, at the rate of twelve thousand
14 dollars per mile, (not exceeding the sums named from

15 each town in the first section of this act,) with cou-
16 pons for interest attached, payable semi-annually, *pro-*
17 *vided* that said scrip may be subdivided and issued in
18 lieu thereof, for such sums as the parties may deem
19 expedient, on the completion of said road and branch
20 beyond that portion thereof upon which the city of
21 Bangor shall have loaned their scrip as aforesaid, and
22 *provided, further*, that said towns of Atkinson, Sebec,
23 Dover and Foxcroft shall not loan their scrip as afore-
24 said, except upon the security of the branch road to
25 be constructed up the valley of the Piscataquis.

SECT. 4. Concurrent with the delivery of said scrip
2 as aforesaid, the president and directors of said com-
3 pany, in their official capacity, shall execute and deliver
4 to the treasurers of said city and towns, the bonds of
5 said company in double the amount of scrip, so at any
6 time received, payable to them, said towns and said
7 city, conditioned that said company will duly pay the
8 interest on said scrip and the principal thereof, and in
9 all respects save and hold the city and towns harmless
10 on account of the issue of the same, and shall also exe-
11 cute and deliver to said treasurers the scrip of said
12 company payable to the holders thereof, at the same
13 time and for the same amount as the scrip, at any time
14 issued by said treasurers to said company, with like

15 coupons attached, which scrip shall be held by said city
16 and towns, as collateral security for the fulfilment of
17 the conditions of said bonds, and in default of any one
18 of said conditions, said city and towns may, from time
19 to time, sell said scrip, or any portion thereof, at public
20 auction or auctions in the cities of Bangor, Portland,
21 Boston, or New York, after sixty days notice, in
22 writing, to the president, or one of the directors, or
23 three of the stockholders of said company, naming
24 therein the time and place of sale; and the net pro-
25 ceeds thereof shall be endorsed on said bonds.

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 scrip
4 from said city and towns, and the delivery of their
5 bonds to said city and towns, to secure the payment
6 of the same, to execute and deliver to said city and
7 towns which may accept this act and loan their credit
8 to said railroad company, a mortgage deed without
9 prior incumbrance, of all their railroad from its south-
10 ern terminus to Brownville and the Katahdin Iron
11 Works, including the branch to Dover and Foxcroft,
12 and of all the corporate property, real and personal,
13 and of the franchise of said company, or such propor-
14 tion thereof as will afford one mile of road and its pro-

15 portion of personal property for each twelve thousand
16 dollars of scrip so loaned said company by said city and
17 towns, which mortgage shall be signed by the said
18 president in his official capacity, and shall be executed
19 according to the law of this State, and shall be in due
20 and legal form, and shall contain apt and sufficient
21 terms to secure to said city and towns the fulfilment of
22 all the conditions in said bond contained, and said
23 mortgage so executed and delivered, and recorded in
24 the registry of deeds for the counties of Penobscot and
25 Piscataquis, shall to all intents and purposes be, and
26 the same is hereby declared to be, a full and complete
27 transfer of said railroad and branch, of all the property
28 of said company real and personal, then and subse-
29 quently to be acquired, and of said franchise, or such
30 proportion thereof as will afford the ratio of security
31 above named, subject only to the conditions therein
32 contained, any law to the contrary notwithstanding,
33 and all the proceedings in the organization of said com-
34 pany and choice of directors shall be deemed valid and
35 regular.

SECT. 6. For the purpose of foreclosing said mortgage,
2 it shall be sufficient for said mayor and aldermen, or
3 selectmen, or either, to give notice according to the mode
4 prescribed in the fifth section of the nineteenth chapter

5 of the revised statutes, which notice may be published
6 in newspapers printed in Bangor and Dover, and
7 record thereof may be made within thirty days after
8 the date of the last publication in the registry of deeds
9 for the counties of Penobscot and Piscataquis, which
10 publications and records shall be sufficient for the pur-
11 poses of such foreclosure. Upon the expiration of three
12 years from and after such publications, if the condi-
13 tions of said mortgage shall not within that time have
14 been performed, the foreclosure shall be complete, and
15 shall make the title of the railroad and to all the prop-
16 erty and franchise aforesaid, absolute in said city and
17 towns.

SECT. 7. If the directors of the 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, said city and
7 towns, or either, may take actual possession in the
8 manner hereinafter provided, of the railroad ; of all the
9 property real and personal of the company, and of the
10 franchises thereof, and may hold the same and apply
11 the income thereof to make up and supply such defi-
12 ciencies and all further deficiencies that may occur

13 while the same are so held until such deficiencies shall
14 be fully made up and discharged. A written notice,
15 signed by the mayor and aldermen of said city, and
16 the selectmen of said towns, or either, and served upon
17 the president or treasurer, or any director of the com-
18 pany, or if there are none such, upon any stockholder
19 of the company, stating that said city and towns, or
20 either, thereby takes actual possession of the railroad
21 and of the property and franchises of the company,
22 shall be a sufficient actual possession thereof, and shall
23 be a legal transfer of all the same, for the purpose
24 aforesaid to said city and towns, or either, and shall
25 enable them to hold the same against any other trans-
26 fer thereof, and against any other claim thereon, until
27 such purposes have been fully accomplished. Such
28 possessions shall not be considered as an entry for fore-
29 closure under any mortgage hereinbefore provided, nor
30 shall the rights of said city and towns, or of the com-
31 pany under any mortgage be affected thereby.

SECT. 8. All moneys received by or for the railroad
2 company, after notice as aforesaid, from any source
3 whatsoever, and by whomsoever the same may be re-
4 ceived, shall belong to and be held for the use and
5 benefit of said city and towns in the order of maturity
6 of said railroad company's liabilities to them, and in

7 the manner and for the purposes herein provided, and
8 shall, after due notice given to persons receiving the
9 same, respectively be by them paid to the city treas-
10 urer of said city of Bangor, to be by him disbursed
11 in liquidation of said company's liabilities and in the
12 order aforesaid, which payment shall be an effectual
13 discharge from all claims of the company therefor ;
14 but if any person without such notice, shall make pay-
15 ment of moneys so received to the treasurer of the
16 company, such payment shall be a discharge of all
17 claims of said city and towns therefor ; all moneys
18 received by the treasurer of the company, after such
19 notice, or in his hands at the time such notice may be
20 given, shall be by him paid to said city treasurer, after
21 deducting the mount expended or actually due for the
22 running expenses of the road, for the salaries of the
23 officers of the company and for repairs necessary for con-
24 ducting the ordinary operations of the road. Such pay-
25 ments to the treasurer of said city of Bangor, shall be
26 made at the end of every calendar month, and shall be
27 by him applied to the payment of all the interest and
28 principal due in manner aforesaid, and according to the
29 order aforesaid ; and any person who shall pay or apply
30 any moneys received as aforesaid, in any manner con-
31 trary to the foregoing provisions, shall be liable there-

32 for, and the same may be recovered in an action for
33 money had and received in the name of the city treas-
34 urer, whose duty it shall be to sue for the same, to be
35 by him held and applied as herein required.

SECT. 9. For the purpose of effecting the objects
2 prescribed in the preceding sections, the mayor and
3 aldermen, and selectmen, or either, may cause a suit
4 in equity to be instituted in the name of said city and
5 towns, or either, in the supreme judicial court in the
6 counties of Penobscot or Piscataquis, against the rail-
7 road company, its directors, or any other person, as
8 may be necessary for the purpose of discovery, injunc-
9 tion, account, or other relief, under the provisions of
10 this act, and any judge of the court may issue a writ
11 of injunction, or any other suitable process on any such
12 bill, in vacation or in term time, with, or without
13 notices; and the court shall have jurisdiction of the
14 subject matter of such bills, and shall have such pro-
15 ceedings and make such orders and decrees, as may be
16 within the powers, and according to the course of pro-
17 ceedings of courts of equity, as the necessities of the
18 case may require.

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

4 shall be found, the mayor and aldermen of said Bangor
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 pro-
9 visions of the act establishing said company; and upon
10 their acceptance, such officers shall be subject to all
11 the duties and liabilities thereof.

SECT. 11. The city of Bangor shall appoint one of
2 the directors of said railroad company, from among
3 the stockholders, who shall be chosen annually by the
4 city council in joint ballot before 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 director.
9 But the right to choose such director shall cease when
10 the loans contemplated is extinguished.

SECT. 12. As an additional or accumulative protec-
2 tion for said city and towns, all liabilities which by
3 said city and towns may be assumed or incurred under,
4 or by virtue of any of the provisions of this act, shall
5 at the time, and by force thereof, and for the security
6 and payment of the same, create in favor of said city,
7 a lien on said railroad and branch, its franchise, and

8 all its appendages, and all real and personal property
9 of said railroad corporation, which lien shall have the
10 preference and be prior to all other liens and incum-
11 brances whatever, and shall be enforced, and the rights
12 and interests of said city and towns protected when
13 necessary, by suitable and proper payments, injunc-
14 tions or decrees of said supreme judicial court, on a
15 bill or bills in equity, which power is hereby specially
16 enforced on said court.

SECT. 13. This act shall not take effect unless it
2 shall be accepted by said company, and by a vote
3 of the inhabitants of said city and towns, voting in
4 ward and town meetings, duly called according to
5 law, within three years after the approval of this act
6 by the governor, and at least two-thirds of the votes
7 cast at such ward and town meetings shall be neces-
8 sary for the acceptance of this act. The return of
9 such ward and town meetings shall be made to the
10 aldermen of said city and the selectmen of said towns,
11 and by them counted and declared; and said city and
12 town clerks shall make a record thereof, and if the act
13 shall be accepted as aforesaid, then after such accept-
14 ance and record thereof, all the parts of the act shall
15 take effect and be in full force thereafter.

SECT. 14. The towns aforesaid, as also all other

2 towns in said counties of Penobscot and Piscataquis,
3 through which said Bangor and Piscataquis Railroad
4 and branch may be located and built, may, by a two-
5 thirds vote of the inhabitants thereof, in open town
6 meeting duly called for that purpose, secure for said
7 railroad corporation the right of way through their
8 several towns, and may, for that purpose, by such two-
9 thirds vote, assess upon the polls and estates in said
10 towns a tax sufficient to pay such land damages as
11 may be required, and purchase such right of way,
12 and save harmless said railroad corporation in all
13 respects therefrom.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }
Feb. 26, 1861. }

Laid on the table by Mr. RAMSDELL of Atkinson, and on his motion, 350 copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER, *Clerk.*