

# 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)

DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1849.



Augusta:

WM. T. JOHNSON;.....PRINTER TO THE STATE.

1850.

---

# TWENTY-NINTH LEGISLATURE.

---

No. 28.]

[HOUSE.

---

## STATE OF MAINE.

---

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

---

AN ACT to incorporate the Portland Gas-Light  
Company.

---

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

SECTION 1. Charles Q. Clapp, A. W. H. Clapp,  
2 John Neal, Abner Crowell, Francis O. J. Smith, Hor-  
3 ace V. Bartol and Henry B. McCobb, their associates,  
4 and successors are hereby constituted a body politic  
5 and corporate by the name of the Portland Gas-Light  
6 Company, and by that name shall have and enjoy all

7 the necessary powers and privileges to effect the ob-  
8 jects of their association, and shall be subject to such  
9 duties, liabilities and exemptions as are or may be  
10 provided by the general laws of this state in the case  
11 of manufacturing corporations.

SEC. 2. The capital stock of said company shall be  
2 not less than thirty thousand dollars nor more than  
3 one hundred thousand dollars, and shall be divided  
4 into shares of one hundred dollars each. The said  
5 capital stock shall be applied exclusively to the man-  
6 ufacture and distribution of gas for the purpose of  
7 lighting the city of Portland; *Provided*, that said  
8 company shall not have power to erect, establish or  
9 continue any works for the manufacture of gas at any  
10 place within the limits of the said city of Portland,  
11 without the previous assent of the city council, and a  
12 specific assignment of the boundaries of such estab-  
13 lishment, and such erection, establishment or contin-  
14 uance without such previous consent, shall be consid-  
15 ered a nuisance, and said company shall be liable to  
16 indictment therefor, and to all the provisions of law  
17 applicable thereto. And nothing contained in this  
18 act shall be construed to affect or diminish the liabilities  
19 of said company for any injury to private property, by

20 depreciating the value thereof, or otherwise, but said  
21 company shall be liable therefor in an action on the  
22 case.

SEC. 3. The said company are hereby authorized  
2 to lay down in and through the streets of said city,  
3 and to take up, replace and repair all such pipes and  
4 fixtures as may be necessary for the objects of their  
5 incorporation, first having obtained the consent of the  
6 city council therefor, and under such restrictions and  
7 regulations as said city council may see fit to pre-  
8 scribe. And any obstruction in any street of said city,  
9 or taking up or displacement of any portion of any  
10 street, without such consent of the city council, or  
11 contrary to the restrictions or regulations that may be  
12 prescribed as aforesaid, shall be considered a nuisance.  
13 And said company shall be liable to indictment there-  
14 for, and to all the provisions of law applicable thereto.  
15 And said company shall in all cases be liable to repay  
16 to said city all sums of money that said city may be  
17 obliged to pay on any judgment recovered against said  
18 city for damages occasioned by any obstructions, or  
19 taking up or displacement of any street by said com-  
20 pany, whatever, with or without the consent of the  
21 city council, together with counsel fees and other

22 expenses incurred by said city in defending any suit  
23 to recover damages as aforesaid, with interest on the  
24 same, to be recovered in an action for money paid to  
25 the use of said company.

SEC. 4. Whenever the company shall lay down any  
2 pipes, or erect any fixtures in any street, or make any  
3 alteration or repairs upon their works in any street,  
4 they shall cause the same to be done with as little ob-  
5 struction to the public travel as may be practicable.  
6 And shall, at their own expense, without unnecessary  
7 delay cause the earth and pavements removed by  
8 them, to be replaced in proper condition. They shall  
9 not be allowed in any case to obstruct or impair the  
10 use of any public or private drain, or common sewer  
11 or reservoir, but said company shall have the right to  
12 cross, or where necessary, to change the direction of  
13 any private drain, in such a manner as not to obstruct  
14 or impair the use thereof, being liable for any injury  
15 occasioned by any such crossing or alteration, to the  
16 owner thereof, or any other person, in an action upon  
17 the case.

SEC. 5. The city council of the city of Portland,  
2 are hereby authorized to contract with said company  
3 for lighting the streets and public buildings of said

4 city, and the moneys necessary to be expended there-  
5 for, shall be assessed and collected in the same man-  
6 ner as taxes for other purposes.

SEC. 6. If the said company shall be duly organized  
2 within two years from the passage of this act, and  
3 shall within that time, have raised and expended at  
4 least ten thousand dollars for the objects of their in-  
5 corporation, and shall have actually commenced the  
6 lighting of the city with gas, they shall then have and  
7 enjoy the franchise and privileges granted them by  
8 this act, exclusively, for the term of thirty years from  
9 the date of their organization, subject to the terms and  
10 limitations hereinafter prescribed, and subject to all  
11 such regulations and control as may, by law, be exer-  
12 cised over corporations by the judicial tribunals of this  
13 state; *Provided*, and this grant is upon the condition,  
14 that said company should at all times, and within a  
15 reasonable time after request by the city council of  
16 Portland, supply with gas, to such an extent and in  
17 such a manner as may be required, any street or pub-  
18 lic buildings, at a fair and reasonable rate of payment  
19 therefor, and in case said parties cannot agree upon  
20 the rate of payment, said company shall be obliged to  
21 furnish said gas at a rate to be fixed by three disinter-

22 ested persons, to be selected one by each of said  
23 parties, and a third by the two thus selected, who shall  
24 be paid for their services by said parties equally, and  
25 if said company shall at any time refuse, or unreason-  
26 ably neglect to comply with this condition, the exclu-  
27 sive privilege herein granted shall be of no effect.

SEC. 7. The management of the affairs of the  
2 company, and all expenditures made for the purposes  
3 authorized by this act shall be directed by a board of  
4 directors, to be chosen annually, of such number as  
5 may be prescribed by the by-laws of the company.  
6 The accounts of the company shall be kept by a  
7 treasurer, who shall be chosen by the directors. The  
8 directors shall severally be sworn before the clerk of  
9 the corporation to make true and faithful exhibits in  
10 their records, of all expenditures directed or allowed  
11 by them for the purposes authorized by this act. The  
12 treasurer shall in like manner be sworn to make and  
13 keep true and distinct accounts of all expenditures  
14 authorized by the directors, and paid by him from the  
15 funds of the company.

SEC. 8. At any time after the organization of the  
2 company, the city of Portland shall be authorized,  
3 upon a vote of the city council to that effect, to take



4 and hold in the capital stock of the company, an  
5 amount not exceeding one half thereof, upon paying  
6 to the company a like proportional part of the cost,  
7 up to such time, of all their buildings, works, fixtures,  
8 pipes and other property, and ten per cent. of such  
9 proportional part in addition thereto. The amount  
10 so received by the company for the proportional part  
11 so taken by the city shall be distributed and paid over  
12 to the other stockholders, in proportion to their sev-  
13 eral interests, and the par value of the several shares  
14 held by them shall be reduced accordingly. The  
15 company shall, at the same time create and issue to  
16 the city such a number of shares of the same par  
17 value, together with a fractional share, if necessary,  
18 as shall represent the whole amount paid by the city  
19 for the proportional part of the capital stock so taken.  
20 At all meetings of the stockholders of the company,  
21 the shares held by the city shall be represented by  
22 such agent as the city council may by vote, from time  
23 to time appoint, who shall be entitled to cast one vote  
24 for every share held by the city. And if said com-  
25 pany shall neglect to comply with the provisions of  
26 this section for the space of one month after an offer  
27 and request from the mayor to that effect, all the

28 rights and privileges of said company shall wholly  
29 cease and be of no effect.

SEC. 9. At the expiration of the term of thirty  
2 years named in the seventh section of this act, the  
3 city of Portland shall be authorized, upon the vote of  
4 the city council to that effect, to pay to said company  
5 the appraised value of their said buildings, works,  
6 pipes, fixtures and other property, and upon such  
7 payment, may take and hold all said property, with-  
8 out any right, privilege or franchise remaining to said  
9 company, and may dispose of said property in such  
10 manner as the city council shall determine. For the  
11 purpose of making the valuation aforesaid, the city  
12 council shall, within three months before the expira-  
13 tion of the thirty years aforesaid, give notice to the  
14 company and appoint two disinterested persons, and  
15 the company shall appoint two other disinterested  
16 persons to be appraisers, and the four persons so ap-  
17 pointed, shall appoint a fifth disinterested person to be  
18 one of the appraisers. If the company shall neglect  
19 or omit, for two months after the notice aforesaid, to  
20 appoint appraisers on its part, then the two appraisers  
21 appointed by the city council shall be authorized to  
22 make the appraisal, and the decision of the appraisers in

23 either case shall be final. And if said company shall  
24 neglect or refuse for the space of one month after an  
25 appraisal shall have been made in pursuance of the  
26 provisions of this section, and after said city shall  
27 have notified said company of its readiness to take  
28 said property at such appraisal, to deliver all its afore-  
29 said property to said city, and to execute good and  
30 sufficient conveyances thereof, then said city may take  
31 possession of said property and hold the same as is  
32 hereinbefore provided, being responsible to said com-  
33 pany to pay the appraised value aforesaid, and no sale  
34 of said property, at any time, by said company, in  
35 derogation of the rights of said city herein specified,  
36 shall be valid, and the rights and privileges of said  
37 company as a corporation shall wholly cease from and  
38 after their refusal as aforesaid.

SEC. 10. If the city of Portland shall not so pay  
2 for and take the property of the company, at the  
3 appraisal so made, then the franchise and privileges  
4 hereby granted to said company, shall be continued  
5 to them and shall be held and enjoyed by them ex-  
6 clusively, for a further term of twelve years after the  
7 expiration of the thirty years aforesaid, subject to the  
8 limitation prescribed in the ninth section of this act.

SEC. 11. If the said company or any of their servants or officers employed in effecting the objects of the company, shall willfully or negligently place or leave any obstructions in any of the streets of Portland, beyond what is actually necessary in laying down, taking up and repairing their fixtures, or shall willfully or negligently omit to repair and put in proper condition any street, in which the earth or pavements may have been removed by them, the company shall be subject to indictment therefor, in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fine as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictments aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property by reason of any such negligence, willfulness or omission, he shall be entitled to recover damages of the company therefor, by an action on the case, in any court of competent jurisdiction.

SEC. 12. The mayor and aldermen for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said cor-

4 poration, which may, in any manner, affect the health,  
5 safety, or convenience of the inhabitants of said city.

SEC. 13. This act shall be taken and deemed to be  
2 a public act, and shall be in force from and after its  
3 approval by the governor.

# STATE OF MAINE.

---

HOUSE OF REPRESENTATIVES, July 24, 1849.

ORDERED, That 350 copies of the foregoing Bill, (reported by the committee on Manufactures,) be printed for the use of the House.

E. W. FLAGG, *Clerk.*