

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1850.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1850.

THIRTIETH LEGISLATURE.

No. 18.]

[HOUSE.

STATE OF MAINE.

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

AN ACT to authorize the city of Portland to grant further aid in the construction of the Atlantic and St. Lawrence railroad.

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

SECTION 1. The city of Portland is hereby authorized to make a further loan of its credit to the Atlantic and St. Lawrence railroad company, in aid of the construction of their railroad—subject to the following terms and conditions.

SEC. 2. This act shall not take effect, unless it shall be accepted by the directors of said railroad

3 company, and by the vote of the inhabitants of said
4 city, voting in ward meetings duly called according to
5 law ; and at least two thirds of the whole number of
6 votes cast at such ward meetings shall be necessary
7 for the acceptance of the act. The returns of such
8 ward meetings shall be made to the aldermen of the
9 city, and they shall count and declare the votes re-
10 turned, and the city clerk shall make record thereof.

SEC. 3. Upon the acceptance of the act as afore-
2 said, the city treasurer is authorized to make and
3 issue from time to time, for the purposes contemplated
4 in this act, the script of said city, in convenient and
5 suitable sums, payable to the holder thereof, on a
6 term of time not less than twenty, nor more than
7 thirty years, with coupons for interest attached, pay-
8 able semi-annually or yearly.

SEC. 4. The whole amount of the script to be is-
2 sued and delivered under this act, shall not exceed
3 five hundred thousand dollars, and the same shall be
4 delivered by the city treasurer to the directors of the
5 railroad company from time to time as may be re-
6 quired, subject to the several provisions of this act.
7 In all cases, the script shall bear date from the deliv-

8 ery thereof, and the proceeds of the same shall be
9 applied by the directors of the company, exclusively
10 to the construction and necessary furniture and equip-
11 ment of the Atlantic and St. Lawrence railroad.

SEC. 5. Upon the delivery of each and every por-
2 tion of the script aforesaid, the directors shall execute
3 and deliver to the city treasurer, for the city, the bond
4 of the company in an equal amount, payable to the
5 city, conditioned that the company will duly pay the
6 interest on said script, and will provide for the reim-
7 bursement of the principal thereof, and hold the city
8 harmless on account of the issue of the same, accord-
9 ing to the provisions of this act.

SEC. 6. The directors shall also, if required by the
2 mayor and aldermen of the city, transfer to the city,
3 upon the delivery of any portion of the script as
4 aforesaid, an equal amount in the shares of the com-
5 pany, to be held as security for the faithful perform-
6 ance of all the obligations of the company mentioned
7 in the preceding section, and the certificates of such
8 shares shall be delivered to the city treasurer. The
9 shares so transferred, shall be credited in the stock
10 books of the company as fully paid up. But the city

11 shall not be taken and held as a stockholder in the
12 company by reason of the transfer of shares for the
13 purposes aforesaid, under the provisions of this act,
14 or of an act passed August 1, 1848, nor shall any
15 assessments ever be required on the shares hereby
16 authorized to be transferred as aforesaid, nor shall
17 any dividends be paid on the same, nor any right of
18 acting or voting at the meetings of the company be
19 claimed or exercised by reason of said shares, so long
20 as the same shall be held as security as aforesaid.

SEC. 7. From and after the issue and delivery to
2 the directors of any portion of the script issued under
3 this act, the city shall have in addition to the lien
4 which it now has by virtue of the act passed as afore-
5 said August 1, 1848, a further lien upon said railroad,
6 and upon all the property and franchise of the com-
7 pany to secure the performance of the conditions of
8 all the bonds, executed and delivered under the pro-
9 visions of this act, which lien may be enforced, in the
10 manner hereinafter provided.

SEC. 8. For the purpose of providing for the reim-
2 bursement of the principal of the script, authorized
3 to be issued by this act, a sinking fund shall be estab-

4 lished, and shall be under the management of com-
5 missioners. The same persons who shall from time
6 to time, be the commissioners of the sinking fund
7 created under the act aforesaid, passed August 1,
8 1848, shall be the commissioners of the sinking fund
9 created under this act. They shall severally be sworn
10 to the faithful discharge of the duties enjoined upon
11 them by this act, before the delivery of any portion
12 of the script hereby authorized, which oath shall be
13 taken in presence of the city clerk, who shall make
14 record thereof, as in case of the qualification of city
15 officers.

SEC. 9. Whenever the directors shall receive any
2 portion of the script, authorized as aforesaid to be
3 delivered to them, they shall pay to the city treasurer
4 two per cent. of the amount of the script so delivered,
5 which amount shall be by the city treasurer placed to
6 the credit of the commissioners of the sinking fund,
7 and shall constitute a part of the fund established by
8 this act. The directors shall also annually, in the
9 month of April, pay to the city treasurer, from the
10 income of the road, one per cent. of the whole
11 amount of script which shall have been before that

12 time issued and delivered under this act, and which
13 shall be then outstanding; but after the expiration of
14 five years from the time of the delivery and receipt
15 of the first portion of script as aforesaid, the said
16 annual payments from the income of the road shall be
17 increased to one and a half per cent. of the amount
18 of the script so issued and then outstanding as afore-
19 said, and the said annual payments of one per cent.
20 for five years, and one and a half per cent. annually
21 thereafter, shall be successively placed to the credit
22 of the commissioners of the sinking fund, and shall
23 constitute a part of said fund established by this act.

SEC. 10. The commissioners shall have the care
2 and management of all the moneys and securities at
3 any time belonging to said fund; but the moneys
4 uninvested, and the securities, shall be in the custody
5 of the city treasurer, who shall be, by virtue of his
6 office, treasurer of the sinking fund established by
7 this act, and shall be responsible in his official bond to
8 the city, for the safe keeping of the moneys and se-
9 curities of the fund. He shall pay out and deliver
10 any of said moneys and securities only upon the war-
11 rant of the commissioners.

SEC. 11. The commissioners shall, from time to
2 time, at their discretion, invest the moneys on hand,
3 securely so that they shall be productive, and the
4 same may be loaned on mortgage of real estate, or to
5 any county, or upon pledge of the securities of any
6 county in this state, or invested in the stock of this
7 state, or of the United States. Any portion of the
8 fund may be invested in the script authorized by this
9 act, or by the aforesaid act of August 1, 1848, and
10 such script shall not thereby be extinguished, but shall
11 be held by the commissioners, like their other invest-
12 ments, for the purposes of the fund. An amount not
13 exceeding twelve per cent. of the fund may be loaned
14 on pledge of the stock of any bank, or of any stock
15 insurance company in this state, and the commission-
16 ers may from time to time sell and transfer any of said
17 securities.

SEC. 12. The sinking fund aforesaid, and all the
2 sums which shall be added thereto by accumulation
3 upon the investments thereof, shall be reserved and
4 kept inviolate for the redemption and reimbursement
5 of the principal of the script authorized by this act,
6 at the maturity thereof, and shall be applied thereto
7 by the commissioners.

SEC. 13. Any of the shares in the stock of the
2 company, held by the city for security, as provided
3 in the sixth section of this act, may be sold and trans-
4 ferred by the commissioners of the sinking fund, with
5 the consent of the directors of the company, when-
6 ever an exchange thereof can be advantageously
7 made for any of the script authorized by this act, or
8 whenever the said script can be advantageously pur-
9 chased with the proceeds of any such sale of such
10 collateral shares. And the script so purchased or
11 taken in exchange, shall be thereupon cancelled and
12 extinguished, and the amount thereof shall be endorsed
13 on the respective bonds of the company given on the
14 issue and delivery of such script. But no part of
15 the sinking fund established by this act, or of its ac-
16 cumulations shall be applied at any time or in any
17 manner to the redemption and extinguishment of the
18 script before the maturity thereof.

SEC. 14. If the directors of the company shall at
2 any time fail to pay to the city treasurer for the sink-
3 ing fund created by this act, the amount aforesaid of
4 one per cent., or of one and a half per cent., required
5 to be paid into the sinking fund, out of the income

6 of the road, the commissioners are authorized, at
7 their discretion, upon such notice to the company as
8 they shall deem suitable, to sell so many of the shares
9 held by the city for security, as may be necessary to
10 supply the amount of such deficiency, and the pro-
11 ceeds of such sale shall thereupon be paid into the
12 sinking fund, and shall become a part thereof. All
13 such conveyances and transfers of shares, which may
14 be sold as aforesaid, shall be made by the city treas-
15 urer, under the direction of the commissioners.

SEC. 15. The commissioners shall keep a true
2 record of all their proceedings and an account of all
3 the sums paid into the fund, and of the investments
4 of the same, and shall, annually in the month of July,
5 report to the mayor and aldermen of the city, and to
6 the directors of the railroad company, their proceed-
7 ings for the year, the amount and condition of the
8 fund, and the income of the several parts thereof.
9 Their records and the accounts of the fund, and the
10 securities belonging thereto shall at all times be open
11 to the inspection of any committee appointed for that
12 purpose by the mayor and aldermen, or by the direct-
13 ors of the company.

SEC. 16. To secure the faithful discharge of the
2 several trusts confided to the said commissioners
3 under this act, the supreme judicial court is hereby
4 empowered, upon the complaint of the mayor and
5 aldermen of the city, or of the directors of the rail-
6 road company, against the said commissioners or
7 either of them, concerning any of their said trusts
8 and duties, by summary process, according to the
9 course of proceedings in equity, to hear and adjudge
10 upon the matters of such complaint and to issue
11 thereon, any suitable suit or process, and make any
12 lawful decree to compel the proper discharge and
13 performance of such duties and trusts, and to remove
14 the said commissioners or either of them.

SEC. 17. If the said sinking fund with its accumu-
2 lations shall, at any time exceed the amount of the
3 script unredeemed and outstanding, issued under this
4 act, all such excess shall be annually paid over to the
5 railroad company; and if any surplus of the fund
6 shall remain after the redemption and reimbursement
7 of all the said script, such surplus shall be paid over
8 to the company. And the mayor and aldermen may
9 from time to time, cause to be reconveyed to the rail-

10 road company, such parts of the stock transferred to
11 the city under this act, as they may deem not to
12 be required for the securities herein provided. Upon
13 the final completion of all the duties enjoined upon
14 the commissioners under this act, their records and
15 accounts shall be deposited with the railroad company.

SEC. 18. For the purpose of securing and en-
2 forcing the lien granted to the city by the seventh
3 section of this act, and by the ninth section of the act
4 aforesaid, passed August 1, 1848, the directors of the
5 company are hereby authorized, and it shall be their
6 duty whenever thereby directed by the mayor and
7 aldermen, to execute and deliver to the city of Port-
8 land a mortgage of said railroad and of all its prop-
9 erty real and personal, and of the franchise of the
10 company. Such mortgage shall be signed by the
11 president of the company in his official capacity, and
12 shall be executed according to the laws of the several
13 states through which the railroad shall pass, and shall
14 be of due and legal form, and shall contain apt and
15 sufficient terms for the security of the city against
16 any liabilities then existing, or which may thereafter
17 be incurred in pursuance of this act, and of the act

18 aforesaid, passed August 1, 1848. The record of
19 such mortgage in the registry of deeds for Cumber-
20 land county shall be a sufficient registry thereof to all
21 intents and purposes, within this state. If any por-
22 tion of the railroad shall not have been completed
23 at the time of the execution of such mortgage, the
24 directors shall be held whenever thereto requested,
25 as aforesaid, to execute and deliver other like mort-
26 gages of any other portion of the road and property,
27 as may be from time to time required, and such fur-
28 ther mortgage shall be subject to like provisions, and
29 shall have like operation as is hereinbefore prescribed.

SEC. 19. If the directors of the company shall neg-
2 lect or refuse to execute and deliver any such mort-
3 gage, after request as aforesaid, the mayor and alder-
4 men may cause a suit in equity to be instituted in the
5 name of the city to compel the due execution and
6 delivery thereof. The supreme judicial court for the
7 county of Cumberland, shall have jurisdiction of such
8 suit, and shall hear and determine the same, by sum-
9 mary process, in their discretion, and shall make such
10 decree therein as may be suitable to effect the pur-
11 poses herein required.

SEC. 20. For the purpose of foreclosing any such
2 mortgage upon the property and franchise of the
3 company within this state, it shall be sufficient for the
4 mayor and aldermen to give notice according to the
5 mode prescribed in the fifth section of the one hun-
6 dred and twenty-fifth chapter of the revised statutes,
7 which notice may be published in a newspaper printed
8 in the city of Portland, and record thereof may be
9 made within thirty days after the date of the last publi-
10 cation, in the registry of deeds for the county of Cum-
11 berland, which publication and record shall be suffi-
12 cient for the purposes of such foreclosure. Upon the
13 expiration of three years from and after such publica-
14 tion, if the conditions of such mortgage shall not within
15 that time have been performed, the foreclosure shall
16 be complete, and shall be sufficient to make the title
17 to all the property and franchise aforesaid, absolute
18 in the city of Portland. And any transfer of any of
19 the personal property of the company, made after
20 publication of such notice to foreclose, without the
21 consent of the mayor and aldermen, shall be wholly
22 void; but lawful transfers and changes of any of the
23 personal property of the company, not including the

24 franchise, and the rails actually laid, and the right of
25 way may be made notwithstanding such mortgage,
26 before publication of notice to foreclose as aforesaid;
27 and all personal property acquired by the company, by
28 purchase, exchange or otherwise, after the execution
29 and delivery of any such mortgage, shall be covered
30 and held thereby.

SEC. 21. 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 script issued
4 and delivered under the provisions of this act, or of
5 the act aforesaid passed August 1, 1848, or to make
6 the annual payments thereby required for the sinking
7 fund, the city of Portland may take actual possession in
8 and the manner hereinafter provided, of the railroad
9 of all the property real and personal of the company,
10 and of the franchise thereof, and may hold the same
11 and apply the income thereof to make up and supply
12 such deficiencies of interest and amounts payable for
13 the sinking fund and all further deficiencies that may
14 occur, while the same are so held, until such deficien-
15 cies shall be fully made up and discharged. A writ-
16 ten notice signed by the mayor and aldermen or by a

17 majority of their number, and served upon the presi-
18 dent or treasurer, or any director of the company, or
19 if there are none such, upon any stockholder in
20 the company, stating that the city thereby takes
21 actual possession of the railroad, and of the property
22 and franchise of the company, shall be a sufficient
23 actual possession thereof, and shall be a sufficient
24 legal transfer of all the same for the purposes afore-
25 said to the city, and shall enable the city to hold the
26 same against any other transfers thereof, and against
27 any other claims thereon, until such purposes have
28 been fully accomplished. Such possession shall not
29 be considered as an entry for foreclosure, under any
30 mortgage hereinbefore provided, nor shall the rights
31 of the city or of the company under such mortgage
32 be in any manner affected thereby.

SEC. 22. All moneys received by or for the railroad
2 company, after notice as aforesaid, from any source
3 whatever, and by whomsoever the same may be
4 received, shall belong to and be held for the use and
5 benefit of the city, in the manner, and for the pur-
6 poses herein provided, and shall, after notice given to
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 the company
10 therefor ; but if any person, without such notice, shall
11 make payment of moneys so received to the treasurer
12 of the company, such payment shall be a discharge
13 of all claims of the city therefor. All moneys received
14 by the treasurer of the company, after such notice,
15 or in his hands at the time such notice may be given,
16 shall be by him paid to the city treasurer, after de-
17 ducting the amount expended, or actually due for the
18 running expenses of the road, for the salaries of the
19 officers of the company, and for repairs necessary for
20 conducting the ordinary operations of the road.
21 Such payments to the city treasurer shall be made at
22 the end of every calendar month, and shall be by him
23 applied to the payment of the interest due as afore-
24 said, and placed to the credit of the commissioners of
25 the sinking fund, in the amounts required by the pro-
26 visions of this act, and the act aforesaid, passed
27 August 1, 1848. And any person who shall pay or
28 apply any moneys received as aforesaid in any man-
29 ner contrary to the foregoing provisions, shall be per-
30 sonally liable therefor, and the same may be recovered

31 in an action for money had and received, in the name
32 of the city treasurer, whose duty it shall be to sue for
33 the same, to be by him held and applied as is herein
34 required.

SEC. 23. 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 institu-
4 ted in the name of the city, in the supreme judicial
5 court, in the county of Cumberland, against the rail-
6 road company, its directors, and any other person, as
7 may be necessary, for the purpose of discovery, in-
8 junction, account or other relief under the provisions
9 of this act. And any judge of the court may issue a
10 writ of injunction or any other suitable process on
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 bill, and shall have such
14 proceedings and make such orders and decrees, as
15 may be within the powers and according to the
16 course of proceedings of courts of equity, and as the
17 necessities of the case may require.

SEC. 24. 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 the city
5 shall appoint a board of directors, consisting of not
6 less than seven persons, or any other necessary offi-
7 cers, and the persons so appointed shall have all the
8 power and authority of officers chosen or appointed
9 under the provisions of the act establishing said com-
10 pany, and upon their acceptance of such offices,
11 shall be subject to all the duties and liabilities thereof.

SEC. 25. This act shall take effect from and after
2 its approval by the governor, so far as to empower
3 the directors of the railroad company and the inhabi-
4 tants of the city to act upon the question of accepting
5 the same. The several ward meetings of the inhab-
6 itants for that purpose, shall be called and holden
7 within thirty days after such approval. And if the
8 act shall be accepted as aforesaid, then after such
9 acceptance and record thereof, all the parts of the act
10 shall take effect and be in full force.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, JUNE 26, 1850.

ORDERED, That 500 copies of the foregoing bill be printed for the use of the Legislature.

EDMUND W. FLAGG, *Clerk.*