

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTIETH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1850.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.  
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1850.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1850.

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## Chapter 335.

## CHAP. 335.

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:*

SECT. 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.

City of Portland authorized to loan its credit.

SECT. 2. This act shall not take effect, unless it shall be accepted by the directors of said railroad company, and by the vote of the inhabitants of said city, voting in ward meetings duly called according to law; and at least two-thirds of the whole number of votes cast at such ward meetings shall be necessary for the acceptance of the act. The returns of such ward meetings shall be made to the aldermen of the city, and they shall count and declare the votes returned, and the city clerk shall make record thereof.

Act when to take effect.

SECT. 3. Upon the acceptance of the act as aforesaid, the city treasurer is authorized to make and issue from time to time, for the purposes contemplated in this act, the scrip of said city, in convenient and suitable sums, payable to the holder thereof, on a term of time not less than twenty, nor more than thirty years, with coupons for interest attached, payable semi-annually or yearly.

Scrip to be issued, &c.

SECT. 4. The whole amount of the scrip to be issued and delivered under this act, shall not exceed five hundred thousand dollars, and the same shall be delivered by the city treasurer to the directors of the railroad company from time to time as may be required, subject to the several provisions of this act. In all cases, the scrip shall bear date from the delivery thereof, and the proceeds of the same shall be applied by the directors of the company, exclusively to the construction and necessary furniture and equipment of the Atlantic and St. Lawrence railroad.

Amount not to exceed \$500,000.

Date of scrip, and how applied.

SECT. 5. Upon the delivery of each and every portion of the scrip aforesaid, the directors shall execute and deliver to the city treasurer, for the city, the bond of the company in an equal amount, payable to the city, conditioned that the company will duly pay the interest on said scrip, and will provide for the reimbursement of the principal thereof, and hold the city harmless on account of the issue of the same, according to the provisions of this act.

Bond of the company to be given for the scrip

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Security to be given, if required.

SECT. 6. The directors shall also, if required by the mayor and aldermen of the city, transfer to the city, upon the delivery of any portion of the scrip as aforesaid, an equal amount in the shares of the company, to be held as security for the faithful performance of all the obligations of the company mentioned in the preceding section, and the certificates of such shares shall be delivered to the city treasurer. The shares so transferred, shall be credited in the stock books of the company as fully paid up. But the city shall not be taken and held as a stockholder in the company by reason of the transfer of shares for the purposes aforesaid, under the provisions of this act, or of an act passed August first, one thousand eight hundred and forty-eight, nor shall any assessments ever be required on the shares hereby authorized to be transferred as aforesaid, nor shall any dividends be paid on the same, nor any right of acting or voting at the meetings of the company be claimed or exercised by reason of said shares, so long as the same shall be held as security as aforesaid.

City not to be considered a stockholder.

Additional lien.

SECT. 7. From and after the issue and delivery to the directors of any portion of the scrip issued under this act, the city shall have in addition to the lien which it now has by virtue of the act passed as aforesaid August first, one thousand eight hundred and forty-eight, a further lien upon said railroad, and upon all the property and franchise of the company to secure the performance of the conditions of all the bonds, executed and delivered under the provisions of this act, which lien may be enforced, in the manner hereinafter provided.

Sinking fund.

SECT. 8. For the purpose of providing for the reimbursement of the principal of the scrip, authorized to be issued by this act, a sinking fund shall be established, and shall be under the management of commissioners. The same persons who shall from time to time, be the commissioners of the sinking fund created under the act aforesaid, passed August first, one thousand eight hundred and forty-eight, shall be the commissioners of the sinking fund created under this act. They shall severally be sworn to the faithful discharge of the duties enjoined upon them by this act, before the delivery of any portion of the scrip hereby authorized, which oath shall be taken in presence of the city clerk, who shall make record thereof, as in case of the qualification of city officers.

Sinking fund, how raised.

SECT. 9. Whenever the directors shall receive any portion of the scrip, authorized as aforesaid to be delivered to them, they shall pay to the city treasurer two per cent. of the amount

of the scrip so delivered, which amount shall be by the city treasurer placed to the credit of the commissioners of the sinking fund, and shall constitute a part of the fund established by this act. The directors shall also annually, in the month of April, pay to the city treasurer, from the income of the road, one per cent. of the whole amount of scrip which shall have been before that time issued and delivered under this act, and which shall be then outstanding; but after the expiration of five years from the time of the delivery and receipt of the first portion of scrip as aforesaid, the said annual payments from the income of the road shall be increased to one and a half per cent. of the amount of the scrip so issued and then outstanding as aforesaid, and the said annual payments of one per cent. for five years, and one and a half per cent. annually thereafter, shall be successively placed to the credit of the commissioners of the sinking fund, and shall constitute a part of said fund established by this act.

SECT. 10. The commissioners shall have the care and management of all the moneys and securities at any time belonging to said fund; but the moneys uninvested, and the securities, shall be in the custody of the city treasurer, who shall be, by virtue of his office, treasurer of the sinking fund established by this act, and shall be responsible in his official bond to the city, for the safe keeping of the moneys and securities of the fund. He shall pay out and deliver any of said moneys and securities only upon the warrant of the commissioners.

Sinking fund,  
how managed

SECT. 11. The commissioners shall, from time to time, at their discretion, invest the moneys on hand, securely so that they shall be productive, and the same may be loaned on mortgage of real estate, or to any county, or upon pledge of the securities of any county in this state, or invested in the stock of this state, or of the United States. Any portion of the fund may be invested in the scrip authorized by this act, or by the aforesaid act of August first, one thousand eight hundred and forty-eight, and such scrip shall not thereby be extinguished, but shall be held by the commissioners, like their other investments, for the purposes of the fund. An amount not exceeding twelve per cent. of the fund may be loaned on pledge of the stock of any bank, or of any stock insurance company in this state, and the commissioners may from time to time sell and transfer any of said securities.

Investment of  
sinking fund.

SECT. 12. The sinking fund aforesaid, and all the sums which shall be added thereto by accumulation upon the invest-

Sinking fund to  
be reserved for a  
specific purpose.

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ments thereof, shall be reserved and kept inviolate for the redemption and reimbursement of the principal of the scrip authorized by this act, at the maturity thereof, and shall be applied thereto by the commissioners.

Shares in the stock may be exchanged for scrip.

SECT. 13. Any of the shares in the stock of the company, held by the city for security, as provided in the sixth section of this act, may be sold and transferred by the commissioners of the sinking fund, with the consent of the directors of the company, whenever an exchange thereof can be advantageously made for any of the scrip authorized by this act, or whenever the said scrip can be advantageously purchased with the proceeds of any such sale of such collateral shares. And the scrip so purchased or taken in exchange, shall be thereupon cancelled and extinguished, and the amount thereof shall be endorsed on the respective bonds of the company given on the issue and delivery of such scrip. But no part of the sinking fund established by this act, or of its accumulations shall be applied at any time or in any manner to the redemption and extinguishment of the scrip before the maturity thereof.

Commissioners authorized to sell stock in certain cases.

SECT. 14. If the directors of the company shall at any time fail to pay to the city treasurer for the sinking fund created by this act, the amount aforesaid of one per cent., or of one and a half per cent., required to be paid into the sinking fund, out of the income of the road, the commissioners are authorized, at their discretion, upon such notice to the company as they shall deem suitable, to sell so many of the shares held by the city for security, as may be necessary to supply the amount of such deficiency, and the proceeds of such sale shall thereupon be paid into the sinking fund, and shall become a part thereof. All such conveyances and transfers of shares, which may be sold as aforesaid, shall be made by the city treasurer, under the direction of the commissioners.

Record, how kept.

SECT. 15. The commissioners shall keep a true record of all their proceedings and an account of all the sums paid into the fund, and of the investments of the same, and shall, annually in the month of July, report to the mayor and aldermen of the city, and to the directors of the railroad company, their proceedings for the year, the amount and condition of the fund, and the income of the several parts thereof. Their records and the accounts of the fund, and the securities belonging thereto shall at all times be open to the inspection of any committee appointed for that purpose by the mayor and aldermen, or by the directors of the company.

SECT. 16. To secure the faithful discharge of the several trusts confided to the said commissioners under this act, the supreme judicial court is hereby empowered, upon the complaint of the mayor and aldermen of the city, or of the directors of the railroad company, against the said commissioners or either of them, concerning any of their said trusts and duties, by summary process, according to the course of proceedings in equity, to hear and adjudge upon the matters of such complaint and to issue thereon, any suitable writ or process, and make any lawful decree to compel the proper discharge and performance of such duties and trusts, and to remove the said commissioners or either of them.

Matters of complaint between the city and commissioners, how adjusted.

SECT. 17. If the said sinking fund with its accumulations shall, at any time exceed the amount of the scrip unredeemed and outstanding, issued under this act, all such excess shall be annually paid over to the railroad company; and if any surplus of the fund shall remain after the redemption and reimbursement of all the said scrip, such surplus shall be paid over to the company. And the mayor and aldermen may from time to time, cause to be reconveyed to the railroad company, such parts of the stock transferred to the city under this act, or the act aforesaid, passed August first, one thousand eight hundred and forty-eight, as they may deem not to be required for the securities herein provided. Upon the final completion of all the duties enjoined upon the commissioners under this act, their records and accounts shall be deposited with the railroad company.

Excess of sinking fund, how applied.

SECT. 18. For the purpose of securing and enforcing the lien granted to the city by the seventh section of this act, and by the ninth section of the act aforesaid, passed August first, one thousand eight hundred and forty-eight, the directors of the company are hereby authorized, and it shall be their duty whenever thereby directed by the mayor and aldermen, to execute and deliver to the city of Portland a mortgage of said railroad and of all its property real and personal, and of the franchise of the company. Such mortgage shall be signed by the president of the company in his official capacity, and shall be executed according to the laws of the several states through which the railroad shall pass, and shall be of due and legal form, and shall contain apt and sufficient terms for the security of the city against any liabilities then existing, or which may thereafter be incurred in pursuance of this act, and of the act aforesaid, passed August first, one thousand eight hundred and

Lien to be secured by a mortgage.

Mortgage, how executed, &c.



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forty-eight. The record of such mortgage in the registry of deeds for Cumberland county shall be a sufficient registry thereof to all intents and purposes, within this state. If any portion of the railroad shall not have been completed at the time of the execution of such mortgage, the directors shall be held whenever thereto requested, as aforesaid, to execute and deliver other like mortgages of any other portion of the road and property, as may be from time to time required, and such further mortgage shall be subject to like provisions, and shall have like operation as is hereinbefore prescribed.

Neglect of duty,  
&c.

SECT. 19. If the directors of the company shall neglect or refuse to execute and deliver any such mortgage, after request as aforesaid, the mayor and aldermen may cause a suit in equity to be instituted in the name of the city to compel the due execution and delivery thereof. The supreme judicial court for the county of Cumberland, shall have jurisdiction of such suit, and shall hear and determine the same, by summary process, in their discretion, and shall make such decree therein as may be suitable to effect the purposes herein required.

Foreclosure of  
mortgage.

SECT. 20. For the purpose of foreclosing any such mortgage upon the property and franchise of the company within this state, it shall be sufficient for the mayor and aldermen to give notice according to the mode prescribed in the fifth section of the one hundred and twenty-fifth chapter of the revised statutes, which notice may be published in a newspaper printed in the city of Portland, and record thereof may be made within thirty days after the date of the last publication, in the registry of deeds for the county of Cumberland, which publication and record shall be sufficient for the purposes of such foreclosure. Upon the expiration of three years from and after such publication, if the conditions of such mortgage shall not within that time have been performed, the foreclosure shall be complete, and shall be sufficient to make the title to all the property and franchise aforesaid, absolute in the city of Portland. And any transfer of any of the personal property of the company, made after publication of such notice to foreclose, without the consent of the mayor and aldermen, shall be wholly void; but lawful transfers and changes of any of the personal property of the company, not including the franchise, and the rails actually laid, and the right of way may be made notwithstanding such mortgage, before publication of notice to foreclose as aforesaid; and all personal property acquired by the company, by purchase, exchange or otherwise, after the execution and

delivery of any such mortgage, shall be covered and held thereby.

SECT. 21. If the directors of the company shall at any time neglect or omit to pay the interest which may become due upon any portion of the scrip issued and delivered under the provisions of this act, or of the act aforesaid, passed August first, one thousand eight hundred and forty-eight, or to make the annual payments thereby required for the sinking fund, the city of Portland may take actual possession in the manner hereinafter provided, of the railroad, of all the property real and personal of the company and of the franchise thereof, and may hold the same and apply the income thereof to make up and supply such deficiencies of interest and amounts payable for the sinking fund and all further deficiencies that may occur, while the same are so held, until such deficiencies shall be fully made up and discharged. A written notice signed by the mayor and aldermen or by a majority of their number, and served upon the president or treasurer, or any director of the company, or if there are none such, upon any stockholder in the company, stating that the city thereby takes actual possession of the railroad, and of the property and franchise of the company, shall be a sufficient actual possession thereof, and shall be a sufficient legal transfer of all the same for the purposes aforesaid to the city, and shall enable the city to hold the same against any other transfers thereof, and against any other claims thereon, until such purposes have been fully accomplished. Such possession shall not be considered as an entry for foreclosure, under any mortgage hereinbefore provided, nor shall the rights of the city or of the company under such mortgage be in any manner affected thereby.

City of Portland to take possession of the road in case the company omit to pay the interest.

Notice, how given.

SECT. 22. All moneys received by or for the 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 the city, in the manner, and for the purposes herein provided, and shall, after notice given to persons receiving the same, respectively, be by them paid to the city treasurer, which payment shall be an effectual discharge from all claims of the company therefor; but if any person, without such notice, shall make payment of moneys so received to the treasurer of the company, such payment shall be a discharge of all claims of the city therefor. All moneys received by the treasurer of the company, after such notice, or in his hands at the time such notice may be given, shall be by

All money accruing from the road after said notice to belong to the city.

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him paid to the city treasurer, after deducting the amount expended, or actually due for the running expenses of the road, for the salaries 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 the interest due as aforesaid, and placed to the credit of the commissioners of the sinking fund, in the amounts required by the provisions of this act, and the act aforesaid, passed August first, one thousand eight hundred and forty-eight. And any person who shall pay or apply any moneys received as aforesaid in any manner contrary to the foregoing provisions, shall be personally 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 is herein required.

Penalty, &c.

A writ of injunction may be issued.

SECT. 23. 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, in the supreme judicial court, in the county of Cumberland, against the railroad company, its directors, and 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 bill, and shall have such proceedings and make such orders and decrees, as may be within the powers and according to the course of proceedings of courts of equity, and as the necessities of the case may require.

Directors to be appointed by the city of Portland, in case the company neglect or refuse.

SECT. 24. If the railroad company shall after notice of possession as aforesaid, neglect to choose directors thereof, or any 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 upon their acceptance of such offices, shall be subject to all the duties and liabilities thereof.

Act when to take effect.

SECT. 25. This act shall take effect from and after its ap-

proval by the governor, so far as to empower the directors of the railroad company and the inhabitants of the city to act upon the question of accepting the same. The several ward meetings of the inhabitants for that purpose, shall be called and holden within thirty days after such approval. And if the act shall be accepted as aforesaid, then after such acceptance and record thereof, all the parts of the act shall take effect and be in full force.

[Approved July 27, 1850.]

### Chapter 336.

An act to incorporate the Union Bank at Brunswick.

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

SECT. 1. George Skolfield, Joseph McKean, William Frost, Isaac Lincoln, C. Martin, Ebenezer Everett, John McKean, John H. Marshall, Adam Lemont, Samuel S. Wing, A. B. Thompson, P. Cleaveland and Josiah Mitchell, their associates, successors and assigns, are hereby incorporated into a company by the name of the president, directors and company of the Union Bank.

Corporators.

Corporate name.

SECT. 2. The capital stock of said bank shall be fifty thousand dollars, divided into shares of one hundred dollars each ; and said bank shall be located and established in Brunswick, and said capital stock shall be paid in and said bank be put in operation within one year from the time when this act shall take effect.

Capital stock.

Location, &c.

SECT. 3. Said corporators are hereby authorized and empowered to exercise all the rights and privileges conferred upon such corporation by the laws of this state, and subject to all the liabilities and restrictions thereof.

Powers, rights, privileges and liabilities.

[Approved July 27, 1850.]