

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)

EIGHTIETH LEGISLATURE

HOUSE

NO. 81

House of Representatives, Feb. 9, 1921.

Tabled pending reference, by Mr. Roberts of Lyman, and
500 copies ordered printed.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Roberts of Lyman.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND
NINE HUNDRED AND TWENTY-ONE**

AN ACT to Incorporate the Kennebunk, Kennebunkport and
Wells Water District.

Be it enacted by the People of the State of Maine, as follows:

Section 1. The territory and people constituting the towns
2 of Kennebunk, Kennebunkport and Wells shall constitute
3 a body politic and corporate under the name of the Kenne-
4 bunk, Kennebunkport and Wells Water District, for the
5 purpose of supplying the inhabitants of said district and
6 said municipalities, and also the portions of the town of
7 York and the city of Biddeford now being served by the
8 York County Water Company, with pure water for domes-
9 tic and municipal purposes.

Sect. 2. Said district is hereby authorized, for the purposes aforesaid, to take and hold sufficient water of any surface or underground brooks, streams, springs, or ponds in said district and may take and hold by purchase or otherwise any land or real estate necessary for erecting dams, power, reservoirs, stand-pipes, or for preserving the purity of the water or watershed and for laying and maintaining aqueducts for taking, discharging and disposing of water.

Sect. 3. Said district shall be liable for all damages sustained by persons or corporations in their property by the taking of any land whatsoever, or water, or by flowage, or by excavating through any land for the purpose of laying pipes, building dams, or constructing reservoirs, or stand-pipes. If any person sustaining damage as aforesaid and said corporate district shall not mutually agree upon the sum to be paid therefor, such person or corporation shall cause his or her or its damages to be ascertained in the same manner and under the same conditions, restrictions and limitations as are or may be prescribed in the case of damages by the laying out of highways.

Sect. 4. Said district is hereby authorized to lay in and through the streets, roads and ways in said district and in the portions of the town of York and the city of Biddeford above described, and across private lands therein, and to maintain, repair and replace all such pipes, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipe

8 or aqueduct in any street, road or highway, it shall cause
9 the same to be done with as little obstruction as practicable
10 to the public travel, and shall, at its own expense, without
11 unnecessary delay, cause the earth and pavement removed
12 by it to be replaced in proper condition.

Sect. 5. All the affairs of the said water district shall be
2 managed by a board of trustees composed of three mem-
3 bers, one chosen by the municipality of Kennebunk, one
4 by the municipality of Kennebunkport and the other by the
5 municipality of Wells; and each of said trustees shall be
6 chosen by election of the voters of the three respective
7 towns at their annual town meetings as town officers are
8 chosen and elected.

The first board of trustees shall be elected at the meeting
2 of each of said towns when this charter is accepted, which
3 meeting may be a special meeting called for said purpose.
4 As soon as convenient after said trustees have been chosen,
5 they shall hold a meeting at the office of the selectmen in
6 the town of Kennebunk and organize by the election of a
7 president and clerk, adopt a corporate seal, and when neces-
8 sary may choose a treasurer and all other needful officers
9 and agents for the proper conduct and management of the
10 affairs of said district. At said first meeting they shall de-
11 termine by lot the term of office of each trustee so that
12 one shall serve for one year, one for two years and one
13 for three years; and when the term of office of a trustee
14 expires, the town which elected said trustee shall elect a

15 successor to serve the full term of three years; and in case
16 any other vacancy arises it shall be filled in like manner
17 for the unexpired term. They may also ordain and estab-
18 lish such by-laws, not inconsistent with the laws of the state,
19 as are necessary for their own convenience and the proper
20 management of the affairs of said district. The terms of
21 office of said trustees shall begin on the first Monday of
22 April, but this provision shall not prevent the first board
23 of trustees from becoming such at once upon their election
24 at the meeting in which each of said towns accepts this
25 charter. The trustees shall make and publish an annual
26 report and include therein the report of the treasurer. Each
27 trustee shall receive in full compensation for his services
28 an allowance of two hundred dollars per annum.

Sect. 6. Said district is hereby authorized and empowered
2 to acquire by purchase or by the exercise of the right of
3 eminent domain, which right is hereby expressly delegated
4 to said district for said purpose, the entire plant, property
5 and franchises, rights and privileges now held by the York
6 County Water Company, including all lands, buildings,
7 pipes, stand-pipes, reservoirs, machinery, fixtures, hydrants,
8 tools, apparatus and appliances, owned by said York County
9 Water Company and used or usable in supplying water, and
10 any other real estate in said district, for the purposes herein
11 set forth.

Sect. 7. In case said trustees fail to agree with said York
2 County Water Company upon the terms of purchase of

3 the above mentioned property, within three months after
4 the acceptance of this charter by the inhabitants of said
5 district as hereinafter set forth, said district, through its
6 trustees aforesaid, is hereby authorized to take said plant,
7 property, and franchises, as for public use by petition there-
8 for in the manner hereinafter provided. And said water
9 district, through its trustees, is hereby authorized at any
10 time after three months and within one year from the date
11 of the acceptance of this charter, as aforesaid, to file a pe-
12 tition in the clerk's office of the supreme judicial court for
13 the county of York, in term time or in vacation, addressed
14 to any justice of said court, who, after due notice to said
15 York County Water Company and its mortgagees, shall,
16 after hearing and within thirty days after the filing of said
17 petition, appoint three disinterested appraisers, none of
18 whom shall be residents of the towns constituting said dis-
19 trict; the York County Water Company and the trustees
20 of said district shall each select one appraiser from three
21 names submitted by the other party and the third appraiser
22 shall be designated by said justice and the three so selected
23 and designated shall be appointed by said justice for the
24 purpose of fixing the valuation of said plant, property and
25 franchises. At the hearing aforesaid, such justice, upon
26 motion of the petitioner, may order the production and fil-
27 ing in court, for the inspection of the petitioner, of all books
28 and papers pertinent to the issue and necessary for a full
29 understanding of the matter to be heard by said appraisers,
30 the terms and conditions of so producing and filing such

31 books and papers to be determined by said justice in his
32 order therefor and to be enforced from time to time as
33 any justice of the supreme judicial court, in term time or
34 in vacation, upon motion of either party, may deem reason-
35 able and proper in the premises. At such hearing, such
36 justice upon motion of the petitioner, may fix a time at
37 which the said water company shall file in the clerk's of-
38 fice of the supreme judicial court for the county of York,
39 for the inspection of the petitioner, the following: First,
40 schedules showing the names, residences and water service
41 of all customers on the first day of January in the year
42 nineteen hundred and twenty-two, with the rate charged
43 therefor; second, copies of all contracts in force on said
44 first day of January; third, an itemized statement of the
45 gross income earned during its last complete fiscal year
46 and up to said January first, and all operating expenses
47 and fixed charges, paid or incurred during such period and
48 properly chargeable thereto; fourth, a memorandum of all
49 real estate, water rights, or interests therein, owned or con-
50 trolled on said first day of January, with such brief de-
51 scription thereof as will reasonably identify the same; fifth,
52 brief descriptions, specifications and plans of all reservoirs,
53 mains, pipes, service pipes, hydrants, gates, gate boxes,
54 shut-off boxes, fixtures and machinery and all the physical
55 elements in such water system, giving in detail quantities,
56 sizes, lengths, and specifying the streets, roads or ways
57 where situated; sixth, an itemized list of all tools, appara-
58 tus, appliances and supplies used or usable in supplying wa-

59 ter on said first day of January. Such orders may be en-
60 forced from time to time by any justice of said supreme
61 judicial court, in term time or in vacation, upon motion of
62 either party, as such justice may deem reasonable and proper
63 in the premises. At such hearing the justice then sitting
64 may, upon motion of the petitioner, make all such decrees
65 as he deems reasonable and proper to enable the petitioner,
66 through its servants and employees, to ascertain the true
67 condition of the mains and pipes of the said water com-
68 pany, externally or internally, in the presence of the offi-
69 cers or agents of said water company, the entire expense
70 thereof to be borne by said water district. The said ap-
71 praisers shall have the power of compelling attendance of
72 witnesses and the production of all books, accounts and
73 papers pertinent to the issue and necessary for a full under-
74 standing by them of the matter in question and may ad-
75 minister oaths; and any witness or person in charge of
76 such books, accounts and papers refusing to attend or to
77 produce the same shall be subject to the same penalties
78 and proceedings, so far as applicable, as witnesses sum-
79 moned to attend the supreme judicial court. Depositions
80 may be taken as in civil actions. The appraisers so ap-
81 pointed shall, after notice and hearing, fix the valuation
82 of said plant, property and franchises at what they are
83 fairly and equitably worth, so that said water company
84 shall receive just compensation for all the same. The first
85 day of January, nineteen hundred and twenty-two, shall
86 be the date as of which the valuation aforesaid shall be

87 fixed, from which date interest on said award shall run,
88 and all rents and profits accruing thereafter shall belong
89 to said water district. The report of said appraisers, or a
90 majority of them, shall be filed in said clerk's office, in
91 term time or in vacation, as soon as may be after their
92 appointment, and such single justice, or, in case of his in-
93 ability to act, any justice of said court appointed by the
94 chief justice, may, after notice and hearing, confirm or re-
95 ject the same, or recommit it if justice so requires. Before
96 a commission is issued to said appraisers either party may
97 ask for instructions to said appraisers, and all questions
98 of law arising upon said requests for instructions, or upon
99 any other matters in issue, may be reported to the law
100 court for determination before the appraisers proceed to
101 fix the valuation of the property, plant and franchises of
102 said company. Upon the confirmation of said report the
103 court so sitting shall thereupon, after hearing, make final
104 decree upon the entire matter, including the application
105 of the purchase money and transfer of property, jurisdic-
106 tion over which is hereby conferred, and with the power
107 to enforce said decree, as in equity cases. All findings of
108 fact by said court shall be final, but any party aggrieved
109 may take exceptions as to any ruling of law so made,
110 the same to be accompanied by so much of the case as
111 may be necessary to a clear understanding of the ques-
112 tions raised thereby. Such exceptions shall be claimed
113 on the docket within ten days after such final decree is
114 signed, entered and filed and notice thereof has been given

115 to the parties or their counsel, and said exceptions so
116 claimed shall be made up, allowed and filed within said
117 time unless further time is granted by the court, or by
118 agreement of the parties. They shall be entered at the
119 next term of the law court to be held after the filing and
120 entry of said decree and there heard unless otherwise
121 agreed; or the law court for good cause shall order fur-
122 ther time for hearing thereon. Before said plant, property
123 and franchises are transferred in accordance with such
124 final decree and before payment therefor, as hereinbefore
125 provided, such justice shall, upon motion of either party,
126 after notice and hearing, take account of all receipts and
127 expenditures properly had or incurred by the York Coun-
128 ty Water Company, belonging to this period, from and
129 after said first day of January, and all net rents and
130 profits accruing thereafter, and shall order the net balance
131 to be added to, or deducted from, the amount to be paid
132 under such final decree, as the case may be. All findings
133 of law and fact by such justice at such hearing shall be
134 final. On payment or tender by said district of the amount
135 so determined and the performance of all the other terms
136 and conditions so imposed by said court, the entire plant,
137 property and franchises shall become vested in said water
138 district. All of said plant, property and franchises shall
139 be taken and shall vest in said district, subject to all bonds,
140 mortgages, liens and incumbrances thereon, all which
141 bonds, mortgages, liens and incumbrances shall be as
142 sumed and paid by said district. The compensation to

143 be paid to said York County Water Company for said
144 plant, property and franchises shall be the difference be-
145 tween the valuation thereof as fixed and determined by
146 said appraisers and the aggregate amount of such bonds,
147 mortgages, liens and incumbrances which are assumed by
148 said district.

Sect. 8. Said district is authorized to furnish and supply
.2 water for fire protection and for domestic uses within the
3 portions of the city of Biddeford and town of York now
4 being served by said York County Water Company in ac-
5 cordance with the terms of its franchise.

Sect. 9. All valid contracts now existing between said
2 company and any persons or corporations for supplying
3 water shall be assumed and carried out by said Kennebunk,
4 Kennebunkport and Wells Water District.

Sect. 10. For accomplishing the purposes of this act said
2 water district is hereby authorized and empowered, through
3 its trustees, to issue its bonds to an amount sufficient to
4 procure funds to pay the expenses incurred in the acquisi-
5 tion of said plant, property and franchises of said com-
6 pany as aforesaid, for further extensions, additions and im-
7 provements of said plant and to refund any bonds or other
8 indebtedness assumed by said district under this act. Said
9 bonds shall be a legal obligation of said water district,
10 which is hereby declared to be a quasi-municipal corpora-
11 tion within the meaning of section one hundred and five of
12 chapter fifty-one of the revised statutes of nineteen hundred
13 and sixteen and all the provisions of said section and acts

14 amendatory thereof shall be applicable thereto. The bonds
15 shall be a legal investment for savings banks. The trustees
16 may also borrow on the notes of the district such sums
17 as may be necessary to meet the current expenses of the
18 district in anticipation of the collection of water rates.

Sect. 11. All individuals, firms and corporations, whether
2 public, private or municipal, shall pay to the treasurer of
3 said district the rates established by said board of trustees
4 for the water used by them, and said rates shall be uniform
5 within the district. Said rates shall be so established as to
6 provide revenue for the following purposes:

I. To pay the current running expenses for maintaining
2 the water system and provide for such extensions and re-
3 newals as may become necessary.

II. To provide for payment of interest on the indebted-
2 ness of the district.

III. To provide each year a sum equal to not less than
2 one or more than four per cent. of the entire indebtedness
3 of the district, which sum shall be turned into a sinking-
4 fund to provide for the final extinguishment of the funded
5 debt. The money set aside for the sinking-fund shall be
6 devoted to the retirement of the obligations of the district,
7 or invested in such securities as savings banks are allowed
8 to hold. Provided, however, that the trustees may, in their
9 discretion and in lieu of the establishment of a sinking-
10 fund, issue the bonds of the district so that not less than
11 one per centum of the amount of the bonds so issued shall
12 mature and be retired each year.

Sect. 12. The property of said district shall be exempt
2 from taxation.

Sect. 13. All incidental powers, rights and privileges nec-
2 essary to the accomplishment of the main object herein set
3 forth are granted to the corporation hereby created.

Sect. 14. This act shall take effect when approved by a
2 majority vote by ballot of the inhabitants of each of said
3 towns of Kennebunk, Kennebunkport and Wells at a spe-
4 cial meeting called for the purpose and held within one
5 year from the date of the passage of this act. And this
6 act shall take effect ninety days after the adjournment of
7 the legislature so far as necessary to empower the calling
8 and holding of such meeting. The approval of this act
9 in the manner provided by this section shall constitute an
10 acceptance by said water district of the methods of ap-
11 praisal prescribed by section seven hereof and shall bind
12 said water district and said water company thereto.

Sect. 15. Sections two, three, four and eight of this act
2 shall be inoperative, null and void, unless said water dis-
3 trict shall first acquire by purchase, or by the exercise of
4 the right of eminent domain, as in this act provided, the
5 plant, property and franchises, rights and privileges now
6 held by the York County Water Company.

Sect. 16. All costs and expenses arising under the provi-
2 sions of this act shall be paid and borne as directed by the
3 court in the final decree provided by section seven.