

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 1332

H. P. 1957

House of Representatives, March 10, 1949.

Reported by Mr. Chapman from Committee on Legal Affairs and laid on table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT Enlarging the Powers of the West Paris Village Corporation.

Emergency preamble. Whereas, the present water and sewer systems of the West Paris Village Corporation are inadequate; and

Whereas, it is imperative that action be taken at the earliest possible time to relieve these conditions; and

Whereas, new construction is vitally necessary; and

Whereas, it is very desirable that this matter be acted upon by the voters at the annual corporation meeting in March, 1949; and

Whereas, if this act cannot be voted upon until 90 days after adjournment of the legislature, it will hold up construction for another year; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning of the constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

P. & S. L., 1921, c. 7, §§ 2-A and 2-B, additional. Chapter 7 of the private and special laws of 1921, as amended, is hereby further amended by

adding thereto 2 new sections, to be numbered 2-A and 2-B, to read as follows:

‘Sec. 2-A. Municipal water system. Said corporation is hereby authorized and empowered to install a municipal water system for the purpose of supplying the West Paris Village Corporation, the inhabitants of said village corporation and the inhabitants of the town of Paris with pure water for domestic, industrial, sanitary and municipal purposes, including the extinguishment of fires and all other purposes for which said corporation may need water.

(1) Source of supply. For the purpose of carrying out the provisions of sections 2-A and 2-B, said West Paris Village Corporation may purchase water from any source within a radius of 8 miles from the territorial limits of said corporation, and may take by purchase or otherwise any real estate or interest therein for the production of water, or essential for erecting dams, reservoirs, or for preserving the purity or quantity of the water, and for laying and maintaining aqueducts and pipes for taking, conveying, discharging or disposing of said water, and said corporation is further authorized to acquire by purchase, or otherwise, any existing water system or rights which may be available for the purposes contained herein.

(2) Liability for damages. Said corporation shall be liable for all damage sustained by any person, corporation, state, or political subdivision thereof or thereby, in the operation of the aforesaid water system. If the amount of damages cannot be mutually agreed upon, then the claimant may cause his damages to be ascertained in the manner prescribed in the case of damages in laying out highways.

(3) Laying of pipes in streets. Said corporation is hereby authorized to lay pipes in and through the streets and highways of West Paris Village Corporation and of the town of Paris, and to take up, repair, maintain and replace all such pipes as may be necessary for the object above set forth, and when said corporation shall lay, repair, maintain or replace such pipes as aforesaid, it shall do so with as little obstruction to public travel as possible, and shall, without unnecessary delay, cause the earth to be replaced in as good condition as possible, all digging in the streets as above set forth to be under the supervision of the selectmen of the town of Paris.

(4) Right of eminent domain conferred. For the construction or repair of any public pipes for the carrying of water, as defined in this section, the West Paris Village Corporation shall have authority to enter upon any land in said village, and to lay such pipes across, over and through such lands, or

to maintain the same, when, in the opinion of the corporation assessors it is for the public interest to do so. Said corporation assessors shall within 30 days after taking any land for the aforesaid purposes, file in the registry of deeds for Oxford county, eastern district, description of the lands so taken and the course of said pipes. All damages by reason of such taking shall be determined by the village assessors, by first giving not less than 7 days' notice in writing by giving the same in hand or by leaving same at the usual place of abode of the owner, tenant, lessee or agent, or by publishing a like notice in a newspaper published in the county of Oxford, designating a time and place for a hearing, the same to be published at least 7 days before the date of said hearing. The corporation assessors shall within 5 days after said hearing is concluded file their return with the corporation clerk, stating the amount of damages allowed for each parcel of land so crossed. Any person who is not satisfied with the amount of his award shall have the right to appeal to the superior court in which the same proceedings shall be had as in the case of appeal from the decision of county commissioners in case of damages for lands taken for highways.

(5) Raising of funds. Said corporation may, at any legal meeting of such village corporation, called for that purpose, raise money in such amount as may be determined at said meeting for the purposes of carrying out the provisions contained herein. Said corporation is further authorized to borrow money for the purposes contained herein upon such terms and conditions as shall be determined at said meeting, the total amount, however, not to exceed 10% of the last regular valuation thereof. The assessors and the treasurer of said corporation are hereby authorized and empowered to sign notes on behalf of said village corporation for the above purpose.

(6) Care and management. The care and management of said water system and the regulation of prices and charges for water supplied as herein contemplated, and all other matters affecting the operation and control of said system, shall be under the control of the assessors of such corporation; or, if the village corporation shall so vote at any legal meeting thereof, said duties shall be placed in the hands of a commission of 3 legal voters of said village corporation, one to be chosen for 1 year, one for 2 years, and one for 3 years, and after being first so chosen, one shall be chosen annually for a 3 year term. In case of a vacancy on said commission for any reason the assessors shall fill the same by appointment until the next annual meeting of said village corporation or special meeting of the voters called for the purpose of filling the vacancy until the next annual meeting.

(7) Procedure if public utility must be crossed. In case of any crossing

of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner, and conditions of the crossing within 30 days after such consent is requested by such corporation, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the corporation.

Sec. 2-B. Municipal sewerage system. Said corporation is hereby authorized and empowered to install and maintain a municipal sewerage system for the purpose of supplying the West Paris Village Corporation, the inhabitants of said village corporation and the inhabitants of the town of Paris with a sewerage system for domestic, industrial, sanitary and municipal purposes.

(1) Raising of funds. The West Paris Village Corporation, in addition to the powers already granted it, is hereby authorized and empowered to raise money for the construction, support and maintenance of a system of sewerage within the limits of said corporation, and for the purchase of any sewerage system, or part thereof, which is already in existence. Said corporation may also, at any legal meeting of said village corporation called for that purpose, borrow in anticipation of the assessments hereinafter referred to a sum of money not exceeding 10% of the last regular valuation thereof, upon such terms and conditions as shall be determined at said meeting, and the assessors and the treasurer of said corporation are hereby authorized and empowered to sign notes on behalf of said corporation for the above purpose.

(2) Assessments for benefits; plan of sewer and amount of assessments to be filed with clerk; notice and hearing on assessments. It shall be the duty of the assessors of said corporation whenever said corporation has constructed and completed any public drain or sewer, to determine what lots or parcels of land are benefited thereby, and to estimate and assess upon such lots or parcels of land, and against the owner thereof, or person in possession, or against whom the taxes thereon shall be assessed, whether said person against whom the assessment is made be the owner, tenant, lessee or agent, and whether the same is occupied or not, such sum not exceeding such benefit as they may deem just and equitable towards defraying the expenses of constructing and completing such drain or sewer, together with interest charges on money borrowed to finance such project and such other incidental charges as may be proper therewith, the whole of such assessments not to exceed the actual cost of said construction and completion

together with the incidental charges above referred to, and such drain or sewer shall be forever thereafter maintained and kept in repair by said corporation. Said corporation assessors shall file with the clerk of said corporation the location of such drain or sewer, with a profile description of the same; also the amount assessed upon each lot or parcel together with the owner's name or name of the person against whom such assessment is made, and the clerk of the corporation shall file and record the same in a book kept for that purpose, and within 10 days after filing said notice last above referred to each person so assessed shall be notified of such assessment by having an authentic copy of such assessment, with an order of notice signed by said clerk, stating the time and place for a hearing upon the subject matter of said assessment, given to each person so assessed or left at his usual place of abode in said village corporation; if he has no place of abode in said village corporation then the same shall be given to or left at the abode of his tenant or lessee, if he has one in said village; if he has no such tenant or lessee in such village then by posting said notice in some conspicuous place in the vicinity of the lot or parcel so assessed, at least 30 days before the date of said hearing, and upon said hearing the corporation assessors shall have power to revise, increase or diminish any of said assessments, and all such revisions, increase or diminution shall be in writing and recorded by said clerk. In lieu of the notice above referred to in the case of nonresidents of said village corporation, public notice may be given in some newspaper published in Oxford county by publishing the same for 3 successive weeks, the last publication to be made at least 30 days before the date of said hearing. In case public notice is given as above set forth, the notice should state that an assessment for the sewerage system has been made against all lots or parcels of land benefited, the date of the hearing, and that all persons interested may appear at said hearing to object to the assessment so made, but in every case where a nonresident is assessed every effort must be made to deliver the notice first above referred to.

(3) Right of appeal. Any person who is aggrieved by the doings of said corporation assessors in laying out and constructing said sewer, or in making said assessments, may appeal therefrom to the next term of the superior court held in and for the county of Oxford which shall be held more than 30 days from the date of said hearing above referred to, said date to be the day on which the aforesaid hearing is concluded; the appellant shall serve notice of such appeal in writing, the same to be delivered to the corporation clerk or to an assessor of said corporation, 14 days at least before the session of said court, and shall at the 1st term file a complaint setting forth the facts in the case; either party shall be entitled to a

trial by jury, or the matter in dispute may, upon agreement, be decided by a committee of reference, and the court shall render such judgment or decree in the premises as the nature of the case may require; at the trial exceptions may be taken to the ruling of the judge as in other cases.

(4) Care and management. The care and management of the sewer system, including permits and regulations and charges for entering said sewer, and all other matters affecting the control and operation of said sewerage system, shall be under the control of the village assessors; or, if the village corporation shall so vote at a legal meeting called for that purpose, said duties shall be placed in the hands of a commission of 3 legal voters of said corporation, one to be chosen for 1 year, one for 2 years, and one for 3 years, and after being first so chosen, one shall be chosen annually for a 3-year term. In case of a vacancy on said commission for any reason the assessors shall fill said vacancy by appointment until the next annual meeting of said village corporation or special meeting of the voters called for the purpose of filling said vacancy until the next annual meeting. No person shall connect to such drain or sewer without first obtaining a permit from the assessors, or the commission, whichever the case may be, and all permits so given by the assessors or commission shall be duly recorded with the corporation clerk.

(5) Collection of assessments. The total amount of the assessments hereinbefore mentioned shall be assessed in annual installments of 1/10 part of total amount of such assessments, apportioned among the lots or parcels of land determined to be benefited under subsection (2) hereof, and shall be included as part of the annual West Paris Village Corporation tax against such lots or parcels of land in each and every year until the full amount of said assessment is paid. And the part of said assessment so assessed shall annually create a lien on every lot or parcel of land so assessed, which lien shall be of the same character as the lien for other real estate taxes, and shall be enforced in like manner.

(6) Collection by alternative method. If said assessments are not paid, said village corporation may proceed to enforce the lien created under the provisions of subsection (5) hereof, or, at its option, may sue for and maintain any action against the party so assessed for the amount of such assessment, as for money paid, laid out and expended, in any court competent to try the same, and in such action may recover the amount of such assessment, together with interest at the rate of 10% per year on same from the date of such assessment, together with costs.

(7) Liens for nonowners paying assessments. When any such assess-

ment shall be paid by any person against whom such assessment has been made who is not the owner of the lot or parcel of land so benefited, then the person so paying the same shall have a lien upon such lot or parcel of land for the amount of such assessment so paid, and for incidental charges proper thereto, which lien may be enforced by an action of general assumpsit as for money paid, laid out and expended, and the aforesaid lien shall continue for a period of 1 year from the date of payment of such assessment. Nothing in this provision shall replace or interfere with any other rights which a person may have to recover the money so paid.

(8) Right of eminent domain conferred. For the construction or repair of any public drain or common sewer, the West Paris Village Corporation shall have authority to enter upon any land in said village, and to lay a sewer across, over and through said lands, or to maintain the same, when, in the opinion of the corporation assessors it is for the public interest to do so. Said corporation assessors shall within 30 days after taking any land for the aforesaid purposes, file in the registry of deeds for Oxford county, eastern district, a description of the lands so taken and the course of said drain or sewer. All damages by reason of such taking shall be determined by the village assessors, by first giving not less than 7 days' notice in writing by giving the same in hand or by leaving same at the usual place of abode of the owner, tenant, lessee or agent, or by publishing a like notice in a newspaper published in the county of Oxford, designating a time and place for a hearing, the same to be published at least 7 days before the date of said hearing. The corporation assessors shall within 5 days after said hearing is concluded file their return with the corporation clerk, stating the amount of damages allowed for each parcel of land so crossed. Any person who is not satisfied with the amount of his award shall have the right to appeal to the superior court in which the same proceedings shall be had as in the case of appeal from the decision of county commissioners in case of damages for lands taken for highways.

(9) Procedure if public utility must be crossed In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner, and conditions of the crossing within 30 days after such consent is requested by such corporation, the public utilities commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the corporation.'

Emergency clause; effective date; referendum. In view of the emergency

cited in the preamble hereof, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the West Paris Village Corporation at any regular or special meeting called and held for the purpose not later than 1 year after the approval of this act. Such meeting shall be called by an appropriate article inserted in the call for the meeting and shall be called, advertised and conducted according to the charter of the West Paris Village Corporation. The clerk of the West Paris Village Corporation shall prepare the required ballots upon which he shall reduce the subject matter of this act to the following question: "Shall 'An Act Enlarging the Powers of the West Paris Village Corporation' be accepted?" and the voters shall indicate by a cross or check mark placed over the words "Yes" or "No" their opinion of the same. The result of the vote in the said corporation shall be declared by the overseers of said corporation, and a certificate thereof filed by the clerk with the secretary of state immediately after the determination of the vote. This act shall become effective in full upon the date that the certificate of the result of the votes is filed with the secretary of state to the effect that this act is accepted.