

MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1848.

Augusta:

WILLIAM T. JOHNSON, PRINTER TO THE STATE.

1849.

TWENTY-EIGHTH LEGISLATURE.

No. 17.

SENATE.

STATE OF MAINE.

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

AN ACT to incorporate the Presumscot Water Works.

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

SECTION 1. Francis O. J. Smith, Josiah S. Little,
2 St. John Smith, Allen Haines, James L. Farmer, John
3 Dow, Henry H. Boody, John B. Brown, and Virgil
4 D. Parris, their associates and successors, be and they
5 hereby are constituted a body politic and corporate
6 by the name of the Presumscot Water Works, with
7 power and authority to take, hold and convey to the
8 city of Portland, at and from any point below the falls
9 of the Presumscot river in the town of Westbrook,

10 known as and called the Saccarappa falls, so much of
11 the water of said river as may be necessary for the
12 purposes hereinafter named, and may also, therefor,
13 take and hold by purchase or otherwise, any lands or
14 real estate necessary for laying and maintaining
15 aqueducts or canals for conducting, discharging, dis-
16 posing of and distributing water and for forming
17 reservoirs and for otherwise using said waters as
18 hereinafter authorized. Said corporation shall within
19 sixty days from the time they shall take any lands or
20 water for the purposes of this act, file in the office of
21 the registry of deeds for the county of Cumberland
22 a description of the lands and water so taken as cer-
23 tain as is required in a common conveyance of lands,
24 and a statement of the purpose for which taken, which
25 said description and statement shall be signed by the
26 president of said corporation.

SEC. 2. Said corporation may make and build one
2 or more permanent aqueducts or canals from said
3 river to and into said city, and secure and maintain
4 the same by any works suitable therefor; may erect
5 and maintain dams at any and all desirable points to
6 secure and retain the waters therein; may make and

7 maintain reservoirs within or without said city ; may
8 make and establish such hydrants in such places as
9 may from time to time be deemed proper, and pre-
10 scribe the purposes for which they may be used, and
11 may change or discontinue the same ; may distribute
12 said water throughout said city and its vicinity, and
13 for this purpose, may lay down pipes to any house
14 or building in said city or vicinity, the owner or own-
15 ers thereof having notice and not objecting thereto ;
16 may regulate the use of said water within or without
17 the city, and may establish the prices or rents to be
18 paid therefor ; may carry or conduct any aqueducts,
19 or other works, by them to be made and constructed,
20 over or under any water course or street, rail road,
21 turnpike, highway or other way, in such manner as
22 not to obstruct or impede the travel thereon, and may
23 enter upon and dig up any such road, street or way,
24 for the purpose of laying down pipes beneath the
25 surface thereof, and for maintaining and repairing the
26 same, and generally may do all other acts and things
27 necessary or convenient and proper for the purposes
28 of this act.

SEC. 2. The said corporation shall be liable to

2 pay all damages that shall be sustained by any persons
3 in their property by the taking of any land, water or
4 water rights, or by the constructing of any aqueducts,
5 reservoirs, or other works, for the purposes of this
6 act. And if the owner of any land, water or water
7 right which shall be taken as aforesaid, or other per-
8 son who shall sustain damage as aforesaid, shall not
9 agree upon the damages to be paid therefor, he may
10 apply, by petition, for the assessment of his damages,
11 at any time within three years from the taking of said
12 land, water or water rights, as aforesaid, and not
13 afterwards, to the district court in the county of Cum-
14 berland: such petition may be filed in the clerk's
15 office of said court in vacation, or in term time, and
16 the clerk shall thereupon issue a summons to the said
17 corporation, returnable, if issued in vacation, to the
18 then next term of said court, and if in term time,
19 returnable on such day as the said court shall order, to
20 appear and answer to the said petition; the summons
21 shall be served fourteen days at least, before the return
22 day thereof, by leaving a copy thereof, and of the said
23 petition, certified by the officer who shall serve the
24 same, with the treasurer of said corporation; and the

25 said court may, upon default or hearing of said cor-
26 poration, appoint three judicious and disinterested
27 persons, residents of said county of Cumberland, who
28 shall, after reasonable notice to the parties, appraise
29 the damages, if any, which such petitioners may have
30 sustained as aforesaid; and the award of the said
31 appraisers, or a major part of them, being returned
32 into and accepted by the said court, shall be final,
33 and judgment shall be rendered and execution issued
34 thereon for the prevailing party with costs, unless one
35 of the said parties shall claim a trial by jury as here-
36 inafter provided.

SEC. 4. If either of the parties mentioned in the
2 preceding section, shall be dissatisfied with the amount
3 of damages awarded as therein expressed, such party
4 may, at the term at which such award is accepted, or
5 at the next term thereafter, claim in writing a trial by
6 said court, and have a jury to hear and determine, at
7 the bar of said court, all questions of fact relating to
8 such damages, and to assess the amount thereon;
9 and the verdict of such jury being accepted and re-
10 corded by the said court, shall be final and conclusive,
11 and judgment shall be rendered and execution issued

12 thereon, and costs shall be recovered by the said par-
13 ties respectively, in the same manner as is provided
14 by law in regard to proceedings relating to the laying
15 out of highways.

SEC. 5. No application shall be made to the court,
2 for the assessment of damages for the taking of any
3 water rights until the water shall be actually with-
4 drawn or diverted by said corporation under the au-
5 thority of this act; and any person or corporation,
6 whose water rights may be thus taken and affected,
7 may make his application aforesaid at any time within
8 three years from the time when the waters shall be
9 first actually withdrawn or diverted as aforesaid.

SEC. 6. The occupant of any building, or tenement
2 or premises to which the same is attached, shall be
3 liable for the payment of the price or rent for the use
4 of the water in such building or tenement; and the
5 owner thereof shall also be liable, if, on being notified
6 of such use, he does not object thereto; and if any
7 person or persons shall use any of the said water,
8 either within or without said city, after the same has
9 been taken and confined by said corporation within
10 any of their said dams, aqueducts or pipes, without

11 the consent of said corporation, an action of trespass
12 on the case may be maintained against him or them
13 by said corporation for the recovery of damages
14 therefor.

SEC. 7. If any person or persons shall wantonly
2 or maliciously divert the water or any part thereof,
3 which shall be taken by said corporation pursuant to
4 the provisions of this act, or shall corrupt the same or
5 render it impure, or destroy or injure any dam, aque-
6 duct, pipe, conduit, hydrant, machinery or other
7 property, held, owned or used by the said corporation,
8 or any person or persons under them, by the author-
9 ity and for the purposes of this act, every such person
10 or persons shall forfeit and pay, to the said corpora-
11 tion, three times the amount of the damages that shall
12 be assessed therefor, to be recovered in any proper
13 action, in any court proper to try the same. And
14 any such person or persons may, moreover, on in-
15 dictment and conviction of either of the wanton and
16 malicious acts aforesaid, be punished by fine, not
17 exceeding one thousand dollars, and imprisonment
18 not exceeding one year.

SEC. 8. To the extent that the water so taken by

2 said corporation shall exceed the supply required for
3 the accommodation of the city in manner aforesaid,
4 and under the regulations of said corporation, the
5 same may be used, or rented for use, for manufactur-
6 ing purposes, at such points within the limits of said
7 city or along the line of said works as shall be deemed
8 most useful and productive by said corporation, and
9 to this end, said corporation shall have all the powers
10 and privileges and be subject to all the duties and
11 requirements, which now are, or may hereafter be
12 expressed in the several acts of this state, defining the
13 general powers and duties incident to manufacturing
14 companies.

SEC. 9. The capital stock of said corporation shall
2 not be less than fifty thousand dollars, nor more than
3 two hundred thousand dollars, to be divided into shares
4 of one hundred dollars each.

SEC. 10. If said corporation shall not have been
2 organized, and the location according to actual sur-
3 vey of the route of their canal or canals, aqueduct or
4 aqueducts, made, and the land, water or water rights
5 taken and certificates thereof filed as is provided in
6 section first of this act, on or before the thirty-first

PRESUMSCOT WATER WORKS.

9

7 day of December, in the year of our Lord one thousand eight hundred and fifty-eight, this act shall be null and void.

STATE OF MAINE.

IN SENATE, July 8, 1848.

ORDERED, That three hundred and fifty copies of the foregoing Bill, (reported from the committee on manufactures,) be printed for the use of the Legislature.

DANIEL T. PIKE, *Secretary.*