

# MAINE STATE LEGISLATURE

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# Sixty - Third Legislature.

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HOUSE.

No. 176.

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## STATE OF MAINE.

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

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AN ACT to grant certain powers to the Eden Water  
Company.

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

SECTION 1. For the purpose of supplying the inhabi-  
2 tants of the village of Bar Harbor and vicinity, in the  
3 town of Eden, County of Hancock, State of Maine, with  
4 pure water for domestic and municipal purposes, the ex-  
5 tinguishment of fires, the supply of shipping and the use  
6 of manufactories, the Eden Water Company, a corpora-  
7 tion organized under the general laws of the State of  
8 Maine, shall have power and is hereby authorized, for the  
9 purposes aforesaid, to take, detain and use water from  
10 Eagle Lake and all streams tributary thereto, in the said  
11 town of Eden, and is also authorized to erect and main-  
12 tain dams and reservoirs and to lay down and maintain

13 pipes and aqueducts necessary for the proper accumula-  
14 tion, conducting, discharging, distributing and disposing  
15 of water and forming proper reservoirs therefor. And  
16 said corporation may take and hold, by purchase or other-  
17 wise, any lands or real estate necessary for the purposes  
18 of this corporation.

SECT. 2. Said corporation is hereby authorized for the  
2 purposes aforesaid to erect a dam or dams at the outlet of  
3 said Eagle Lake or elsewhere, of sufficient height and  
4 strength to increase the capacity of said Eagle Lake for  
5 the holding of water, to the extent of four feet higher  
6 than its present mean level.

SECT. 3. Said company shall have power to cross any  
2 water course, private or public sewer, or to change the  
3 direction thereof when necessary for the purposes of their  
4 incorporation, but in such manner as not to obstruct or  
5 impair the use thereof, and said company shall be liable  
6 for any injury caused thereby. Whenever said company  
7 shall lay down any fixtures in any highway, way or street ;  
8 or make any alterations or repairs upon its works in any  
9 highway, way or street, it shall cause the same to be done  
10 with as little obstruction to public travel as may be prac-  
11 ticable, and shall at its own expense, without unnecessary  
12 delay, cause the earth and pavements there removed by it  
13 to be replaced in proper condition.

SECT. 4. Said corporation is hereby authorized to lay  
2 down, in and through the streets and ways in said town of  
3 Eden, and to take up and replace and repair all such pipes,  
4 aqueducts, and fixtures as may be necessary for the pur-  
5 pose of their incorporation. And said corporation shall  
6 be responsible for all damages to persons and property oc-  
7 casioned by the use of such streets and ways, and shall

8 further be liable to pay to said town all such sums re-  
9 covered against said town for damages from obstruction  
10 or defects of said streets and ways caused by said corpor-  
11 ation, and for all expenses, including reasonable council  
12 fees incurred in defending such suits with interest on the  
13 same.

SECT. 5. Said company may take and hold any lands  
2 necessary for flowage, and also for its dams, reservoirs,  
3 locks, gates, hydrants, and other necessary structures,  
4 and may locate, lay and maintain sluices, aqueducts, pipes,  
5 hydrants, and other necessary structures or fixtures in,  
6 over and through any lands for its said purposes, and ex-  
7 cavate in and through such lands for such location, con-  
8 struction and maintenance. It may enter upon such lands  
9 to make surveys and locations, and shall file in the Regis-  
10 try of Deeds, in said county of Hancock, plans of such  
11 locations and lands, showing the property taken, and  
12 within thirty days thereafter, publish notice of such filing  
13 and of taking in some newspaper in said county, such  
14 publication to be continued three weeks successively. Not  
15 more than two rods in width of land shall be occupied by  
16 any one line of pipes or aqueduct, and not more than five  
17 acres by any one reservoir.

SECT. 6. Should the said company and the owner of  
2 such land be unable to agree upon the damages to be paid  
3 for such location, taking, holding and construction, the  
4 land owner or the corporation may within twelve months  
5 after said filing of plans and location, apply to the com-  
6 missioners of said county of Hancock, and cause such dam-  
7 ages to be assessed in the same manner and under the  
8 same conditions, restrictions and limitations as are by law

9 prescribed in the case of damages by the laying out of  
10 highways, so far as such law is consistent with the pro-  
11 visions of this act. If said company shall fail to pay such  
12 land owner, or deposit for his use, with the clerk of the  
13 county commissioners aforesaid, such sum as may be  
14 finally awarded as damages, with costs when recovered by  
15 him within ninety days after notice of final judgment shall  
16 have been received by the clerk of courts of said county,  
17 the said location shall be thereby invalid, and said com-  
18 pany shall forfeit all rights under the same, as against  
19 such land owner. Said company may make a tender to  
20 any land owner damaged under the provisions of this act,  
21 and if such land owner recovers more damages than were  
22 tendered him by said company, he shall recover costs,  
23 otherwise said company shall recover costs. In case said  
24 company shall begin to occupy such lands before the ren-  
25 dition of final judgment, the land owner may require said  
26 company to file its bonds to him with said county commis-  
27 sioners, in such sum and with such sureties as they may  
28 approve, conditioned for said payment or deposit. No  
29 action shall be brought against said company for such tak-  
30 ing, holding and occupation, until after such failure to pay  
31 or deposit as aforesaid. Damages caused by flowage are  
32 to be ascertained and paid in the same manner.

SECT. 7. Said company is hereby authorized to make  
2 contracts with the United States, the State of Maine, and  
3 with corporations and inhabitants of said town of Eden, for  
4 the purposes of supplying water, as contemplated by this  
5 act. And said town of Eden is hereby authorized by its  
6 selectmen, to enter into contract with said company, for  
7 a supply of water for any and all purposes mentioned in

8 this act, and for such exemption from public burden as  
9 said town and said company may agree, which, when  
10 made, shall be legal and binding upon all parties thereto.

SECT. 8. Whoever shall wilfully and maliciously cor-  
2 rupt the water of said lake, or any of the tributaries  
3 thereto, whether frozen or not, or in any way render such  
4 waters impure, whether frozen or not, or whoever shall  
5 wilfully or maliciously injure any of the works of said  
6 company, shall be punished by fine, not exceeding one  
7 thousand dollars, or by imprisonment, not exceeding two  
8 years, and shall be liable to said company for three times  
9 the actual damage, to be recovered in any proper action.

SECT. 9. Said company may increase its capital stock  
2 to a sum not exceeding two hundred and fifty thousand  
3 dollars, and for all its said purposes may hold real and  
4 personal estate necessary and convenient therefor, not  
5 exceeding in value two hundred and fifty thousand dollars.

SECT. 10. If there should be a surplus of receipts or  
2 income after paying operating expenses, salaries, repairs  
3 and interest on the bonds and notes of the company, and  
4 dividends upon its capital stock, said surplus may be  
5 applied to the reduction of water rates, and to extension  
6 and alterations of its pipes and appurtenances.

SECT. 11. On or before May 1st, 1887, the Eden Water  
2 Company shall give to Bar Harbor Water Company writ-  
3 ten notice, offering to buy all the property and franchises  
4 of the Bar Harbor Water Company, and to pay therefore a  
5 price to be determined in the manner hereinafter provided  
6 in this act, and to assume at the contract price, all con-  
7 tracts for pipe legally made by said Bar Harbor Water  
8 Company, prior to January 1st, 1887, and subsisting at

9 the date of said offer. If within twenty days after receipt  
10 of such offer, said Bar Harbor Water Company refuses  
11 to sell, or makes no reply in writing, or neglects to  
12 comply with any of the provisions prescribed by this  
13 section, then said Eden Water Company shall be no  
14 longer bound to take, or pay for, any part of the prop-  
15 erty, franchises or contracts of said Bar Harbor Water  
16 Company, but may proceed as if the provisions of this sec-  
17 tion had not existed. If, however, said Bar Harbor Water  
18 Company elects to sell, it shall give said Eden Water Com-  
19 pany notice thereof, in writing, within twenty days after re-  
20 ceipt of said offer, and shall therein state in terms wheth-  
21 er it accepts said proposal of purchase on the part of said  
22 Eden Water Company, both as to the property and fran-  
23 chise, and as to the contracts aforesaid. If it elects to trans-  
24 fer said contracts, said Bar Harbor Water Company shall  
25 within ten days thereafter, execute and deliver to said Eden  
26 Water Company, all instruments necessary for that purpose.  
27 and said Eden Water Company shall at the same time ex-  
28 ecute and deliver to said Bar Harbor Water Company  
29 legal and sufficient indemnity for all liabilities under said  
30 contracts. Said Bar Harbor Water Company shall to-  
31 gether with said acceptance deliver to said Eden Water  
32 Company suitable agreements to enable said Eden Water  
33 Company to have the exclusive possession, use and opera-  
34 tion of all lands, works and property of the Bar Harbor  
35 Water Company from the time when the bond of said  
36 Eden Water Company for two hundred thousand dollars  
37 shall be filed as hereinafter provided, and to enable said  
38 Eden Water Company, also to have and hold thenceforth  
39 all rents, incomes and revenues of every sort, accruing to

40 said Bar Harbor Water Company, and said Eden Water  
41 Company shall thenceforth be subject to all duties and  
42 liabilities imposed on said Bar Harbor Water Company.  
43 If said parties then fail to agree upon the sum to be paid  
44 for said property and franchise, either party may within  
45 twenty days after the receipt of said acceptance, petition  
46 the County Commissioners of Hancock County to deter-  
47 mine the value thereof, and subsequent proceedings and  
48 rights of appeal thereon by either party, shall be had in  
49 the same manner and under the same conditions, restric-  
50 tions and limitations as may be then prescribed by law in  
51 case of damages by the laying out of highways. Within  
52 ten days after the filing of said petition said Eden Water  
53 Company shall file with the clerk of the Supreme Judicial  
54 Court for said county of Hancock, a bond in the penal  
55 sum of two hundred thousand dollars in terms, and with  
56 sureties approved in writing by the Chief Justice and one  
57 Associate Justice of the Supreme Judicial Court of Maine,  
58 conditioned to pay to said Bar Harbor Water Company  
59 all damages and costs which may be finally awarded under  
60 said petition, together with interest at six per cent on the  
61 value of said property and franchise from the day on which  
62 the bond aforesaid is filed by said Eden Water Company.  
63 Within thirty days after the final determination of the sum  
64 to be paid, said Eden Water Company shall pay the same,  
65 and all lands, property and franchises of said Bar Harbor  
66 Water Company shall thereafter become the property of  
67 said Eden Water Company, and all powers and privileges  
68 of said Bar Harbor Water Company, as a corporation,  
69 shall thereafter cease. On receipt of said payment, said  
70 Bar Harbor Water Company shall execute and deliver all



71 proper deeds, agreements and instruments necessary to con-  
72 vey a perfect title to all the property and franchises afore-  
73 said. In case the Bar Harbor Water Company shall elect  
74 to sell their property and franchise under the provisions  
75 of this act, and the stockholders of said Bar Harbor Water  
76 Company shall, within sixty days from said election, indi-  
77 cate to said Eden Water Company, in writing, their desire  
78 to subscribe for and take any part not exceeding one-third  
79 of the capital stock of the said Eden Water Company, the  
80 said Eden Water Company shall, within sixty days after  
81 receiving said written communication, furnish the owners  
82 of the stock of the Bar Harbor Water Company with said  
83 stock of the Eden Water Company at the same price at  
84 which it is paid for by all other subscribers, which shall  
85 be par; said stock of the Eden Water Company to be  
86 furnished to the stockholders of the Bar Harbor Water  
87 Company in the proportion in which the stock of the Bar  
88 Harbor Water Company is held by said stockholders;  
89 reserving to the stockholders of the said Bar Harbor  
90 Water Company the right, after they shall have subscribed  
91 for said stock, of said Eden Water Company, to allow  
92 said stock, so subscribed for, to remain in the treasury of  
93 the Eden Water Company unpaid for, until twenty days  
94 after said Eden Water Company shall have made full and  
95 complete payment for the property and franchise of the  
96 said Bar Harbor Water Company as herein provided.  
97 *Provided*, that if the stockholders of said Bar Harbor Water  
98 Company shall fail to take and pay for said stock of said Eden  
99 Water Company within said twenty days, their right to  
100 said stock shall thereupon cease.

SECT. 12. In case the Eden Water Company fails to do  
2 and perform any of the acts required of them under the  
3 provisions of section eleven, this charter shall thereupon  
4 become null and void.

SECT. 13. This act shall take effect when approved.



STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 24, 1887. }

Tabled, pending third reading and ordered printed on motion of Mr.  
BARKER of Bangor.

NICHOLAS FESSENDEN, *Clerk.*