

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)

Sixty-Sixth Legislature.

SENATE.

No. 141.

STATE OF MAINE.

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

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

*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, Hull's Cove and
3 vicinity, in the town of Eden, County of Hancock, State
4 of Maine, with pure water for domestic and municipal
5 purposes, the extinguishment of fires, the supply of ship-
6 ping and the use of manufactories, the Eden Water
7 Company, a corporation organized under the general
8 laws of the State of Maine, shall have power and
9 is hereby authorized, for the purposes aforesaid, to
10 take, detain and use water from Eagle lake and all streams
11 tributary thereto, in the said town of Eden, and is also
12 authorized to erect and maintain dams and reservoirs,

13 and to lay down and maintain pipes and aqueducts neces-
14 sary for the proper accumulation, conducting, discharging,
15 distributing and disposing of water and forming proper
16 reservoirs therefor. And said corporation may take and
17 hold, by purchase or otherwise, any lands or real estate
18 necessary for the purposes 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 strenght to increase the capacity of said Eagle lake for the
5 holding of water, to the extent of four feet higher than its
6 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 shall lay down any fixtures in
8 any highway, way or street, or make any alterations or
9 repairs upon its works in any highway, way or street, it
10 shall cause the same to be done with as little obstruc-
11 tion to public travel as may be practicable, and shall at
12 its own expense, without unnecessary delay, cause the
13 earth and pavements there removed by it to be replaced
14 in proper condition.

SECT. 4. Said corporation is hereby authorized to lay
2 down, in and through the streets and ways in said town
3 of Eden, and to take up and replace and repair all such
4 pipes, aqueducts and fixtures as may be necessary for the
5 purpose of their incorporation.

And said corporation shall be responsible for all damages
7 to persons and property occasioned by the use of such
8 streets and ways, and shall further be liable to pay to
9 said town all such sums recovered against said town, for
10 damages from obstruction or defects of said streets and
11 ways, caused by said corporation, and for all expenses,
12 including reasonable counsel fees incurred in defending
13 such suits, with interest on the 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,
5 pipes, hydrants and other necessary structures, or fix-
6 tures in, over and through any lands for its said pur-
7 poses, and excavate in and through such lands for such
8 location, construction and maintenance. It may enter
9 upon such lands to make surveys and locations, and shall
10 file in the office of the county commissioners of said
11 county of Hancock, plans of such locations and lands,
12 showing the property taken, and within thirty days there-
13 after publish notice of such filing and of taking, in some
14 newspaper in said county, such publication to be con-
15 tinued three weeks successively. Not more than two
16 rods in width of land shall be occupied by any one line
17 of pipes or aqueducts, and not more than five acres by
18 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
7 damages to be assessed in the same manner and under
8 the same conditions, restrictions and limitations as are by
9 law prescribed in the case of damages by the laying out
10 of highways, so far as such law is consistent with the
11 provisions of this act. If said company shall fail to pay
12 such land owner, or deposit for his use with the clerk of
13 the county commissioners aforesaid, such sum as may be
14 finally awarded as damages, with costs, when recovered
15 by him, within ninety days after notice of final judgment
16 shall have been received by the clerk of courts of said
17 county, the said location shall be thereby invalid and said
18 company 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
25 rendition of final judgment, the land owner may require
26 said company to file its bonds to him with said county
27 commissioners, in such sum and with such sureties as
28 they may approve, conditioned for said payment or de-
29 posit. No action shall be brought against said company
30 for such taking, holding and occupation, until after such
31 failure to pay or deposit as aforesaid. Damages caused
32 by flowage are to be ascertained and paid in the same
33 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,

4 for the purposes of supplying water as contemplated by
5 this act. And said town of Eden is hereby authorized
6 by its selectmen, to enter into contract with said com-
7 pany, for a supply of water for any and all purposes
8 mentioned in this act, and for such exemption from pub-
9 lic burden as said town and said company may agree,
10 which, when made, shall be legal and binding upon all
11 parties thereto.

SECT. 8. For the purpose of raising funds to be used
2 in the construction of its works, and to carry out its pur-
3 poses as defined by its certificate of organization and by
4 this act, said corporation is authorized to issue its bonds
5 to an amount not exceeding two hundred thousand dol-
6 lars, of such date and denomination and payable at such
7 times as said company may determine, and to secure the
8 said bonds, both principal and interest, by a mortgage
9 upon all its property, both real and personal and its fran-
10 chise and right to be a corporation, including the rights
11 conferred upon it by this act, and if said corporation
12 shall so determine, said bonds may be convertible into
13 preferred stock herein authorized. Said corporation is
14 also hereby authorized to issue non preferred and pre-
15 ferred stock upon such terms and conditions, to such
16 persons and corporations, and with such limitations and
17 restrictions as it may deem necessary or proper, but the
18 total amount of stock so to be issued shall not exceed
19 two hundred and fifty thousand dollars.

The enumeration in this act of certain powers shall not
21 be construed as excluding other powers not enumerated.

SECT. 9. The charter hereby granted shall be null and
2 void if the Bar Harbor Water Company shall, in a proper

3 and workmanlike manner, make the following improve-
4 ments in and extension of its existing plant at the times
5 herein required; on Eden street the existing ten-inch
6 main from the end of the twelve-inch main to the north-
7 ern intersection of High Brook road shall be replaced by
8 twelve-inch main; an eight-inch main shall be laid on
9 said High Brook road from its intersection with Eden
10 street thence up said road to the Woodbury road; thence
11 up the said Woodbury road to Eagle Lake road; thence
12 on said Eagle Lake road to the corner of Eden street and
13 Mount Desert street; the existing four-inch main on
14 Eden street from Cottage street to Mount Desert street
15 shall be replaced by a ten-inch main; on Mount Desert
16 street the present four-inch main shall be replaced by a
17 ten-inch main so that the present ten-inch main shall be
18 extended to and connect with the proposed ten-inch main
19 on Eden street; on West street a six-inch main shall be
20 laid from Eden street to connect with the eight-inch main
21 now on West street; on Bridge street the present two
22 inch from Cottage street to West street shall be replaced
23 by a four-inch main; on Kebo street a six-inch main
24 shall be laid from Mount Desert street eighteen hundred
25 feet; on Second South street the present two-inch main
26 shall be replaced by a six-inch main; on Main street the
27 present four-inch and two-inch mains shall be taken up and
28 a six-inch main shall be laid on said Main street from Mount
29 Desert street to the Cromwell Harbor road and thence down
30 said Main street one thousand feet; on School street the
31 two-inch main from the present six-inch main shall be re-
32 placed by a six-inch main and the said six-inch main thence
33 extended on and along the Cromwell Harbor road to Main

34 street; on Wayman lane from Main street and thence on
35 said lane five hundred and fifty feet the two-inch main now
36 existing shall be replaced by a six-inch main. All leaks
37 shall be stopped reasonably. Air cocks, or their equiv-
38 alent, shall be placed on all summits where needed.
39 Gates shall be placed therein as follows: At the corner
40 of Eden street and Highbrook road a ten-inch and an
41 eight-inch gate; at the Corner of Woodbury road and
42 Eagle lake road an eight-inch gate; at the corner of
43 Mount Desert street and Kebo street an eight-inch, a
44 ten-inch and a six-inch gate; at the corner of Eden and
45 Cottage streets a ten-inch gate; at the corner of Eden and
46 West streets a six-inch gate; on Holland street two four-
47 inch gate; at the corner of School street and the Cromwell
48 harbor road a six-inch gate; on Wyman lane a six-inch
49 gate; at the corner of Main street and proposed street
50 three six-inch gates; at the corner of Main street and the
51 Cromwell harbor road two six-inch gates; the six-inch
52 main on Main street, above specified, shall be laid on or
53 before July first A. D. 1893; the remainder of said work
54 shall be completed on or before January first, A. D. 1894.
55 Said company shall begin said work as soon as practica-
56 ble. Upon petition therefor by the Bar Harbor
57 Water Company, the chief justice of the supreme judi-
58 cial court and two associate justices by him appointed
59 therefor, or three justices appointed by said chief justice
60 in case of his refusal or inability to act, after notice
61 to said Eden Water Company and hearing, may extend
62 said time to July first A. D. 1894, if it appears to them
63 that said Bar Harbor Water Company has prosecuted
64 said work in good faith and has been prevented from the

65 full performance thereof by inevitable accident, or inevita-
66 ble causes.

All said work shall be done under the supervision of a
68 competent engineer. The Eden Water Company shall
69 have the right to appoint an inspector who shall have the
70 privilege of examining said work from time to time, but
71 he shall not in any way interfere with the same or have
72 any authority over such work.

Upon application made by the Bar Harbor Water Com-
74 pany or by the Eden Water Company, filed in the clerk's
75 office of the supreme judicial court for Hancock county
76 during the month of January, A. D. 1894, after notice
77 and hearing, the chief justice of the supreme judicial
78 court, with two associate justices by him appointed there-
79 for, or any three justices appointed by said chief justice
80 in case of his refusal or inability to act, shall determine
81 finally and without appeal whether the aforesaid con-
82 ditions have been substantially performed and whether
83 the charter hereby granted is or is not in full force and
84 operation, and their findings by them signed shall be
85 returned to and entered of record in the office of the
86 clerk of courts of the county of Hancock.

SECT. 10. This act shall in any event become null and
2 void if the said Eden Water Company shall fail to com-
3 mence actual business hereunder, on or before July first
4 A. D. 1896.

SECT. 11. If the said Bar Harbor Water Company
2 shall fail to lay the six inch main on Main street as
3 specified in this bill on or before the first day of July, A. D.
4 eighteen hundred and ninety-three, unless prevented by
5 inevitable accidents or inevitable causes, the Eden Water

6 Company may then present its petition to the chief
7 justice of the supreme judicial court, who with two
8 associate justices appointed by him therefor, or by three
9 justices appointed by said chief justice in case of his
10 refusal or inability to act, and after notice to said Bar
11 Harbor Water Company and hearing upon the same,
12 may determine finally and without appeal that the Bar
13 Harbor Water Company has not performed the conditions
14 as hereip set forth, and that this charter is in full force,
15 and their findings by them signed shall be returned to
16 and entered of record in the office of the clerk of courts
17 in the County of Hancock and this charter shall then be
18 in full force; but if said six inch main is laid by said Bar
19 Harbor Water Company according to the provisions of
20 this bill, then the operation of this charter is suspended
21 until January 1st, A. D. 1894, as provided in the other
22 provisions of this act.

STATE OF MAINE.

IN SENATE, March 9, 1893.

Reported by Mr. PEAKS, from Committee on the Judiciary, and on motion by same Senator laid on table to be printed.

KENDALL M. DUNBAR, *Secretary.*