

MAINE STATE LEGISLATURE

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Seventieth Legislature.

HOUSE.

No. 9

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND ONE.

AN ACT to supply the town of Camden with pure Water.

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

Section 1. The town of Camden, by its municipal officers,
2 or by a commission, as hereinafter provided, acting for and
3 in behalf of said town, is authorized and empowered to take
4 water from Hosmers pond in the town of Camden, in the
5 county of Knox, and Fletcher pond, in the town of Lincoln-
6 ville, in the county of Waldo, and any other body of water,
7 in the said towns of Lincolnville, and Camden, sufficient for
8 domestic purposes in said Camden, including a sufficient
9 quantity for extinguishing fires, and the supply of hotels,
10 livery stables and laundries, and for sprinkling streets and
11 lawns within said town as well as for manufacturing pur-

12 poses and for supplying shipping in Camden harbor ; and for
13 the purposes aforesaid, to take and convey through the said
14 towns of Lincolnton and Camden, and to all parts of said
15 Camden, any of the waters aforesaid, by aqueduct or pipe
16 sunk to any depth desirable for said purposes.

Sect. 2. The town of Camden, by said municipal officers,
2 or by said commission, may make any necessary contract
3 with any person or corporation for acquiring the ownership
4 of a system of water-works within said town of Camden, or
5 the ownership of any part of such system of water-works
6 existing within said town of Camden, or the ownership of
7 the whole or any part of the stock of any aqueduct corpora-
8 tion, or any other corporation owning a system of water-
9 works, or any part thereof, in said town of Camden, whereby
10 the said town of Camden, by its municipal officers or said
11 commission, may be entitled to purchase the whole at any one
12 time, or to purchase the same in installments through a
13 period of years.

Sect. 3. For the purpose of carrying out the provisions of
2 this act, said town of Camden, by its municipal officers, or
3 said commission shall have power, and are hereby authorized
4 to take and hold, by purchase or otherwise, any lands or real
5 estate necessary for laying and maintaining pipes, aqueducts,
6 locks, gates, dams, hydrants and reservoirs, for taking, con-
7 ducting, holding, discharging, and distributing water, and
8 for roadways to be used as approaches thereto, doing no
9 unnecessary damage. They may enter upon said lands to
10 make surveys and locations, and shall file in the registry of
11 deeds, in the county in which such lands or property taken
12 lies, plans of such locations and land, showing the property
13 taken within said county, and within thirty days thereafter,
14 publish such notice of such taking and filing in some news-
15 paper in each of said counties, wherein the said land is taken,

16 such publication to be continued three weeks successively;
17 and such filing in the registry of deeds shall be in lieu of any
18 other filing now required by law. Said town of Camden,
19 by its municipal officers, or by said commission, may permit
20 the use, for said purposes, any lands so taken by it, by any
21 person or corporation, with which it has made such a contract
22 as is described in section 2, whereby the said town of Cam-
23 den may be entitled to acquire the ownership of any aqueduct
24 or system of water-works or any part thereof in said town
25 of Camden.

Sect. 4. Should the said town of Camden, by its municipal
2 officers, or said commission, or such corporation, and the
3 owner of such land, be unable to agree upon the damages to
4 be paid for such location, taking and holding, the land-owner,
5 or the town of Camden, by its municipal officers, or said
6 commission, or such corporation, may within twelve months
7 after the filing of said plans, and location, apply to the com-
8 missioners of either the counties of Knox or Waldo wherein
9 said land lies, who shall cause such damages to be assessed
10 in the same manner and under the same conditions, restric-
11 tions, limitations, and rights of appeal, as are by law pre-
12 scribed in the case of damages for the laying out of high-
13 ways, so far as such law is consistent with the provisions of
14 this act.

Sect. 5. The town of Camden, by its municipal officers, or
2 said commission, are authorized and empowered to contract
3 with any person or corporation to construct aqueducts, pipes,
4 dams, reservoirs, locks, gates, hydrants, and other necessary
5 structures upon lands so taken, as hereinbefore prescribed.
6 And in case any such corporation is organized to construct
7 any such aqueduct, it is empowered to place all or any part
8 of its capital stock in the name of a trustee, or trustees, and
9 to contract that said trustee, or trustees, shall sell and deliver

10 the same to the said town of Camden in installments from
11 year to year, as may be agreed upon.

Sect. 6. For the purpose of carrying into effect the pro-
2 visions of this act, the town of Camden, at a meeting duly
3 called therefor, may, as soon as this act takes effect, if it so
4 elects, or at any time thereafter, or whenever the said town
5 of Camden comes into ownership, control or management of
6 a system of water-works, by building, purchase, or other-
7 wise, elect by ballot three water commissioners, whose duty
8 it shall be to perform all such acts for the town, necessary
9 and convenient for the full operation of this act, as may be
10 prescribed by ordinance, or as may be directed by the municipi-
11 pal officers of said town from time to time. The three per-
12 sons first chosen as aforesaid, shall serve, one for one year,
13 one for two years, one for three years, from the day of the
14 annual March meeting then following, as may be designated
15 by the municipal officers of the said town of Camden; and
16 thereafterwards one commissioner shall be elected by ballot
17 annually at the annual March meeting, to serve for the term
18 of three years. The municipal officers of said town of Cam-
19 den may fill any vacancy occurring by death, resignation or
20 otherwise. The chairman of the municipal officers of said
21 town of Camden for the time being shall be, ex-officio a
22 member of the board of water commissioners. Until such
23 water commissioners are elected, the municipal officers of the
24 said town of Camden shall perform the duties of the water
25 commissioners.

Sect. 7. Said municipal officers of said town of Camden,
2 or said water commissioners in case water commissioners are
3 elected as hereinbefore provided, are authorized to fix the
4 rates of water to be paid monthly, quarterly, semi-annually,
5 or annually, by persons or corporations supplied with the
6 same, and in the same manner determine the conditions and

7 manner of such supply, and shall have general charge and
8 control of the town's water system.

Sect. 8. Said town of Camden, or said commission, or any
2 corporation which either may obtain control directly or indi-
3 rectly, as described in section 2, are authorized, for the pur-
4 poses of carrying into effect the provisions of this act, to dig
5 up and excavate any highway, lay pipe therein, and fill the
6 same under the directions of the road commissioner or such
7 person acting in that behalf.

Sect. 9. Whenever said town of Camden, or said trustee, or
2 any corporation of which either may obtain control, as pro-
3 vided in section 2, either directly or through ownership of
4 stock, shall, under section 1, take water from any of the
5 sources therein named, it shall file in the registry of deeds,
6 in the county in which such source of supply is located, a
7 notice of such taking, describing the size, location and depth
8 of the pipe, or pipes, through which said water is to be taken
9 from said source or sources. The said town of Camden, or
10 said trustee, or said corporation, shall pay all damages sus-
11 tained by any person or corporation in property, by the tak-
12 ing of any water, water sources, water right, or easement,
13 or by any other thing done by said town, or by said trustee,
14 or by said corporation first named in this section, under the
15 authority of this act, which shall be determined and assessed
16 in the same manner as provided in section 4, for land taken
17 under the provisions of this act.

Sect. 10. Subject to the provisos hereinafter contained, the
2 preceding sections of this act shall not take effect, until the
3 said town of Camden shall, by its municipal officers or by
4 its commission, provided for in section 6 of this act, give
5 the Camden & Rockland Water Company and the Rockland
6 Water Company a written notice offering to buy so much
7 of the property belonging to either or both companies as

8 may be located within the limits of the town of Camden at
9 the time of the approval of this act together with such rights
10 and privileges and franchises of said company or com-
11 panies pertaining to the same, except only cash assets, and
12 shall also thereafter pay, or cause to be paid, therefor, a
13 price to be determined in a manner herein provided. Unless
14 the town of Camden, by its officers aforesaid, and said
15 company or companies shall agree upon the price to be paid,
16 or upon some other method of determining said price, then
17 within three months after the giving of said notice but not
18 thereafter, either the said town or the said Camden & Rock-
19 land Water Company and the Rockland Water Company
20 may file in the clerk's office of the supreme judicial court,
21 in and for the county of Knox, either in term time or vaca-
22 tion, a request to the court to appoint a commission, for
23 the purposes hereinafter set out, to consist of three disin-
24 terested persons, none of whom shall be residents of Knox
25 county; at least one of whom shall be a person learned in
26 the law, and at least one a competent and skillful engineer,
27 and the other a person well qualified to judge of the value
28 of said property, rights, privileges and franchises. There-
29 upon, after reasonable notice ordered by the court sitting
30 in said county, or by any judge, either the court, or such
31 judge in vacation, in said county, or elsewhere, may appoint
32 said commission. Such commission shall, as soon as may
33 be, after reasonable notice, hear the parties, their proofs,
34 and arguments, and determine the value of said property,
35 rights, privileges and franchises, except only cash assets as
36 aforesaid. In determining such value the commission shall
37 take into account any existing contracts between the said
38 company or companies and the town of Camden, the con-
39 siderations thereof and all acts done thereunder or in pursu-
40 ance thereof. The commission shall have power to compel

41 the attendance of witnesses, and the production of books
42 and papers pertinent to the issue, and may administer oaths ;
43 and any witness or person in charge of such books or
44 papers, refusing to attend or produce the same shall be sub-
45 ject to the same penalties and proceedings, so far as appli-
46 cable, as witnesses summoned to attend the supreme judicial
47 court. The commission, or a majority thereof, after such
48 hearing, shall report to the court, in said county, in term
49 time, what in its judgment is a fair and just value of the
50 property, rights, privileges and franchises, which it is
51 directed to appraise, and all other findings which it may
52 have been directed by the court or judge to make, and such
53 papers and proofs taken by it, as the court or any judge
54 thereof has directed, or may from time to time direct to
55 return ; and in its report, the commission shall state the
56 date as of which the value aforesaid was fixed. The court
57 may confirm such report, or reject it, or recommit the same,
58 or submit the subject matter thereof to a new commission.
59 The fees and expenses of all the commissioners shall be paid
60 to them, one-half by the town of Camden and one-half by
61 the Camden & Rockland Water Company and the Rockland
62 Water Company. All proceedings of the court, or any
63 judge, with reference to any matter herein, raising a ques-
64 tion of law, whether in term time or vacation, shall be sub-
65 ject to exceptions in the manner provided by statute. But
66 notwithstanding said exceptions, the case shall proceed at
67 nisi prius, and shall not be marked "law" until after judg-
68 ment is entered, as hereinafter set forth, unless the court
69 or the judge being of opining that any question involved is
70 sufficiently important, shall otherwise order. When the
71 court confirms the report of the commission, it shall enter
72 judgment thereon, and within two calendar months after
73 the entry of such judgment, the town shall notify the Cam-

74 den & Rockland Water Company and the Rockland Water
75 Company, in writing, either of its willingness to purchase
76 said property, so situated within the limits of said town of
77 Camden, rights, privileges and franchises, at the price deter-
78 mined by said judgement, and to pay therefor, or of its
79 determination to reject the same. And within two calendar
80 months after such notice is received by said companies, they
81 shall notify said town, in writing, that they will or will not,
82 sell their property as aforesaid to said town at said price.
83 And if said companies shall accept the offer, they shall forth-
84 with cause deeds of transfer and conveyance to be made, and
85 filed in the clerk's office of the Supreme Judicial Court for
86 Knox county, for the inspection of the town of Camden, and
87 to be approved by the court or any justice thereof, in term
88 time or vacation. Said deeds shall convey all the property,
89 rights, privileges and franchises, except cash assets, then
90 owned by the Camden & Rockland Water Company and the
91 Rockland Water Company, within said town of Camden, to
92 said town, or to such person or persons or corporation in
93 trust, for the benefit of said town, as the said town may
94 designate, subject to any mortgages pro rata in relation to
95 such rights, privileges, property and franchises given to
96 secure the payment of bonds not then due, existing thereon
97 at the time the notice is given by the town, as hereinbefore
98 provided, and subject to a lien for the adjustment of matters
99 remaining to be adjusted as hereinafter set out. And if
100 said town shall designate that said property, rights,
101 privileges and franchises, shall be conveyed to
102 any person or persons, or corporation, in trust,
103 as aforesaid, it shall also designate the terms
104 of said trust, which shall be incorporated in said
105 deed. And when said deed or deeds shall be
106 approved, as aforesaid, they shall be delivered to the said
107 town, or said trustee, as the case may be, and said town or

108 said trustee, shall thereupon pay said companies the amount
109 determined by said judgment, and interest thereon, less the
110 face value and accrued interest of the pro rata part or pro-
111 portion as the value of said property, rights, privileges and
112 franchises bear to the whole value of bonds so secured by
113 any existing mortgage of the property, rights, privileges and
114 franchises as hereinbefore provided. The pro rata value of
115 such face value and accrued interest of any bonds so secured
116 by any existing mortgage, (which pro rata value thereof the
117 said town is to have deducted from the amount determined
118 by said judgment) is to be estimated by the three commis-
119 sioners provided for in this section, and said commission are
120 thereupon to determine what deduction shall be made there-
121 for from said judgment of the value of the property, rights,
122 privileges and franchises, by them found. But in case it
123 shall be found by said commission that the face value and
124 accrued interest of the said pro rata value of such face value
125 and accrued interest of the bonds so secured by any existing
126 mortgage, is in excess of the amount determined by said
127 judgment as the fair and just value of the property, rights,
128 privileges and franchises, which it was directed to appraise
129 without deducting anything by way of bonds or mortgages
130 thereon, then, and in that case, the said commission is vested
131 with authority and power to make such equitable adjust-
132 ment of the amounts to be paid or deducted, by either party,
133 as to said commission may be deemed proper. Nothing
134 in this act, nor any proceedings thereunder, so long as the
135 same are pending, until conveyance is made, as hereinbefore
136 directed, shall prevent or embarrass the Camden & Rock-
137 land Water Company and the Rockland Water Company
138 from supplying water in the town of Camden, as authorized
139 by their charter or charters, or making any improvements
140 which will inure to their own interests, or the interests of the

141 inhabitants of Camden, nor from receiving water rents, and
142 other dues and tolls, thereafter accruing. After said pro-
143 perty, rights, privileges and franchises as aforesaid are trans-
144 ferred, as hereinbefore provided, the court shall take
145 account of all receipts and expenditures properly had or
146 incurred by the Camden & Rockland Water Company and
147 the Rockland Water Company, from and after the date on
148 which said property is valued, as aforesaid, and shall enter
149 judgment for the net balance for or against the said Cam-
150 den & Rockland Water Company and the Rockland Com-
151 pany, as the case may be, and shall fix the time within which
152 the same shall be paid. And in the event the same is in
153 favor of the Camden & Rockland Water Company and the
154 Rockland Water Company, and not paid within the time so
155 fixed, the court shall enforce the same against the property,
156 rights, privileges and franchises, conveyed as aforesaid by
157 sale, or otherwise, according to the principles governing
158 Courts in Equity, with reference to enforcing liens and
159 securities, and by execution against the town, so far as law-
160 fully may be done under the constitution of the State, against
161 such person, or corporation or trustee; and in like man-
162 ner it shall issue execution against the Camden & Rockland
163 Water Company and the Rockland Water Company, for any
164 balance than due from them. When said conveyance is
165 made, as aforesaid, to said town, or trustee, the town shall
166 thereupon enter into and upon possession and control of the
167 property, rights, privileges and franchises therein transfer-
168 red, subject to be divested thereof only upon a failure to pay
169 the said pro rata proportion of the mortgaged indebtedness,
170 as found and determined by the said commission hereinbe-
171 fore provided. Provided, nevertheless, that if the said
172 Camden & Rockland Water Company and the Rockland
173 Water Company shall refuse to accept the price as deter-

174 mined by said judgment, less the said pro rata proportion of
175 the said mortgaged indebtedness as found by said commis-
176 sion, or to sell their property therefor, or shall neglect to
177 notify the said town, within the time limited by this section,
178 of their acceptance or refusal, then all other sections of this
179 Act shall have the same effect as though this section did not
180 exist.

Sect. 11. For the purpose of raising money to carry out the
2 provisions of this act, the town of Camden may issue its
3 bonds, with interest coupons, in behalf of said town, signed
4 by the municipal officers of said town, and the treasurer of
5 said town, when authorized by a vote of said town, to an
6 amount which, taken in connection with the other indebted-
7 ness of the town, will not exceed the amount limited by the
8 constitution of Maine. And such bonds shall be signed by
9 the municipal officers of the town and the treasurer of said
10 town, but the coupons need be signed by the treasurer only,
11 and shall be designated and marked "The Camden Water
12 Loan." And for the same purposes the town may sell any
13 stock which it now holds in any corporation.

Sect. 12. The rates for the supply of water under this act
2 shall be fixed so that all expenses for repairs and manage-
3 ment shall be paid annually, together with interest, and such
4 amounts as the town may determine to be paid annually upon
5 the principal expenditures; unless the Camden & Rockland
6 Water Company or the Rockland Water Company shall
7 decline to accept the price adjudicated to be paid by the town
8 of Camden, and shall elect to enter into competition with said
9 town in its water supply, in which case the provisions of this
10 section shall be null and void.

Sect. 13. Except as herein otherwise provided, this act
2 shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, January 22, 1901.

Tabled pending reference by Mr. CARLETON of Winthrop, and
ordered printed.

W. S. COTTON, *Clerk.*