

MAINE STATE LEGISLATURE

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NEW DRAFT.

Seventieth Legislature.

HOUSE.

No. 393

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 quan-
9 tity for extinguishing fires, and the supply of hotels, livery
10 stables and laundries, and for sprinkling streets and lawns
11 within said town as well as for manufacturing purposes and

12 for supplying shipping in Camden harbor; and for the pur-
13 poses aforesaid, to take and convey through the towns of
14 Lincolnton, Hope, Rockport, and Camden, and to all parts
15 of said Camden, any of the waters aforesaid, by aqueduct or
16 pipe 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 waterworks 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 the
7 whole or any part of the stock of any aqueduct corporation,
8 or any other corporation owning a system of water works or
9 any part thereof, in said town of Camden, whereby the said
10 town of Camden, by its municipal officers or said commission,
11 may be entitled to purchase the whole at any one time, or to
12 purchase the same in installments through a 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 un-
9 necessary damage. They may enter upon said lands to make
10 surveys and locations, and shall file in the registry of deeds,
11 in the county in which such lands or property taken lies, plans
12 of such locations and land, showing the property taken within
13 said county, and within thirty days thereafter, publish such
14 notice of such taking and filing in some newspaper in each of
15 said counties, wherein the said land is taken, such publication
16 to be continued three weeks successively; and such filing in

17 the registry of deeds shall be in lieu of any other filing now
18 required by law. Said town of Camden, by its municipal of-
19 ficers, or by said commission, may permit the use, for said
20 purposes, any lands so taken by it, by any person or corpora-
21 tion, with which it has made such a contract as is described
22 in section 2, whereby the said town of Camden may be en-
23 titled to acquire the ownership of any aqueduct or system of
24 water works or any part thereof in said town 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
4 to be paid for such location, taking and holding, the land-
5 owner, or the town of Camden by its municipal officers, or
6 said commission, or such corporation, may within twelve
7 months after the filing of said plans, and location apply to the
8 commissioners of either the counties of Knox or Waldo
9 wherein said land lies, who shall cause such damages to be
10 assessed in the same manner and under the same conditions,
11 restrictions, limitations, and rights of appeal, as are by law
12 prescribed 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 provisions of this act, the town of Camden, at a meeting duly called therefor, may, as soon as this act takes effect, if it so elects, or at any time thereafter, or whenever the said town of Camden comes into ownership, control or management of a system of water works, by building, purchase, or otherwise, elect by ballot three water commissioners, whose duty it shall be to perform all such acts for the town, necessary and convenient for the full operation of this act, as may be prescribed by ordinance, or as may be directed by the municipal officers of said town from time to time. The three persons first chosen as aforesaid, shall serve, one for one year, one for two years, one for three years, from the day of the annual March meeting then following, as may be designated by the municipal officers of the said town of Camden; and thereafter one commissioner shall be elected by ballot annually at the annual March meeting, to serve for the term of three years. The municipal officers of said town of Camden may fill any vacancy occurring by death, resignation or otherwise. The chairman of the municipal officers of said town of Camden for the time being shall be, ex-officio a member of the board of water commissioners. Until such commissioners are elected, the municipal officers of the said town of Camden shall perform the duties of the water commissioners.

Sect. 7. Said municipal officers of said town of Camden, or said water commissioners in case water commissioners are elected as herebefore provided, are authorized to fix the rates of water to be paid monthly, quarterly, semi-annually, or annually, by persons or corporations supplied with the same, and in the same manner determine the condition and manner of such supply, and shall have general charge and 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 in-
3 directly, as described in section 2, are authorized, for the
4 purposes of carrying into effect the provisions of this act, to
5 dig up and excavate any highway, lay pipe therein, and fill
6 the same under the directions of the road commissioner or
7 such person acting in that behalf.

Sect. 9. Whenever said town of Camden, or said trustee,
2 or any corporation of which either may obtain control, as
3 provided in section 2, either directly or through ownership
4 of 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 taking
12 of any water, water sources, water right, or easement, or by
13 any other thing done by said town, or by said trustee, or by
14 said corporation first named in this section, under the author-
15 ity of this act, which shall be determined and assessed in the
16 same manner as provided in section 4, for land taken under
17 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 its
4 commission provided for in section 6 of this act, give the
5 Camden & Rockland Water Company and the Rockland
6 Water Company a written notice offering to buy so much of
7 the property belonging to either or both companies as may
8 be located within the limits of the town of Camden at the
9 time of the approval of this act together with such rights and

10 privileges and franchises of said company or companies per-
11 taining to the same, except only cash assets, and shall also
12 thereafter pay, or cause to be paid, therefor, a price to be
13 determined in a manner herein provided. Unless the town of
14 Camden, by its officers aforesaid, and said company or com-
15 panies shall agree upon the price to be paid, or upon some
16 other method of determining said price, then within three
17 months after the giving of said notice but not thereafter,
18 either the said town or the said Camden & Rockland Water
19 Company and the Rockland Water Company may file in the
20 clerk's office of the supreme judicial court, in and for the
21 county of Knox, either in term time or vacation, a request to
22 the court to appoint a commission, for the purposes herein-
23 after set out, to consist of three disinterested persons, none of
24 whom shall be residents of Knox county; at least one of
25 whom shall be a person learned in the law, and at least one
26 a competent and skilful engineer, and the other a person well
27 qualified to judge of the value of said property, rights, priv-
28 ileges and franchises. Thereupon, after reasonable notice
29 ordered by the court sitting in said county, or by any judge,
30 either the court, or such judge in vacation, in said county, or
31 elsewhere, may appoint said commission. Such commission
32 shall, as soon as may be, after reasonable notice, hear the
33 parties, their proofs, and arguments, and determine the value
34 of said property, rights, privileges and franchises, except only
35 cash assets as aforesaid. In determining such value the com-
36 mission shall take into account any existing contracts be-
37 tween the said company or companies and the town of Cam-
38 den, the considerations thereof and all acts done thereunder
39 or in pursuance thereof. The commission shall have power
40 to compel the attendance of witnesses, and the production of
41 books and papers pertinent to the issue, and may administer
42 oaths; and any witness or person in charge of such books or

43 papers, refusing to attend or produce the same shall be sub-
44 ject to the same penalties and proceedings, so far as appli-
45 cable, as witnesses summoned to attend the supreme judicial
46 court. The commission, or a majority thereof, after such
47 hearing shall report to the court, in said county, in term time,
48 what in its judgment is a fair and just value of the property,
49 rights, privileges and franchises, which it is directed to ap-
50 praise, together with such a sum as the commissioners shall
51 deem an equitable reimbursement for such expenditures as
52 the Camden & Rockland Water Company or the Rockland
53 Water Company have made on their water system outside
54 the limits of Camden for the benefit of the water system in
55 Camden, and all other findings which it may have been di-
56 rected by the court or judge to make, and such papers and
57 proofs taken by it, as the court or any judge thereof has di-
58 rected, or may from time to time direct to return; and in its
59 report, the commission shall state the date as of which the
60 value aforesaid was fixed. The court may confirm such re-
61 port, or reject it, or recommit the same, or submit the subject
62 matter thereof to a new commission. The fees and expenses
63 of all the commissioners shall be paid to them, one-half by
64 the town of Camden and one-half by the Camden & Rock-
65 land Water Company and the Rockland Water Company.
66 All proceedings of the court, or any judge, with reference to
67 any matter herein, raising a question of law, whether in term
68 time or vacation, shall be subject to exceptions in the manner
69 provided by statute. But notwithstanding said exceptions,
70 the case shall proceed at nisi prius, and shall not be marked
71 "law" until after judgment is entered, as hereinafter set forth,
72 unless the court or judge being of opinion that any question
73 involved is sufficiently important, shall otherwise order. When
74 the court confirms the report of the commission, it shall enter
75 judgment thereon, and within two calendar months after the

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

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

142 water rents, and other dues and tools, thereafter accruing.
143 After said property, rights, privileges and franchises as
144 aforesaid are transferred, as hereinbefore provided, the
145 court shall take account of all receipts and expenditures
146 properly had or incurred by the Camden & Rockland Water
147 Company and the Rockland Water Company, from and
148 after the date on which said property is valued, as afore-
149 said, and shall enter judgment for the net balance for or
150 against the said Camden & Rockland Water Company and
151 the Rockland Company, as the case may be, and shall fix
152 the time within which the same shall be paid. And in the
153 event the same is in favor of the Camden & Rockland Water
154 Company and the Rockland Water Company, and not paid
155 within the time so fixed, the court shall enforce the same
156 against the property, rights, privileges and franchises, con-
157 veyed as aforesaid by sale, or otherwise, according to the
158 principles governing courts in equity, with reference to en-
159 forcing liens and securities, and by execution against the
160 town, so far as lawfully may be done under the constitution
161 of the state, against such person, or corporation or trustee;
162 and in like manner it shall issue execution against the Cam-
163 den & Rockland Water Company and the Rockland Water
164 Company, for any balance then due from them. When said
165 conveyance is made, as aforesaid, to said town, or trustee,
166 the town shall thereupon enter into and upon possession and
167 control of the property, rights, privileges and franchises
168 therein transferred, subject to be divested thereof only upon
169 a failure to pay the said pro rata proportion of the mort-
170 gaged indebtedness, as found and determined by the said
171 commission hereinbefore provided. Provided, nevertheless,
172 that if the said Camden & Rockland Water Company and
173 the Rockland Water Company shall refuse to accept the
174 price as determined by said judgment, less the said pro rata

175 proportion of the said mortgaged indebtedness as found by
176 said commission, or to sell their property therefor, or shall
177 neglect to notify the said town, within the time limited by
178 this section, of their acceptance or refusal, then all other
179 sections of this act shall have the same effect as though this
180 section did not 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 purpose 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 de-
7 cline 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. This act shall be of no force or effect unless action
2 is taken under it by the town of Camden before July 1st,
3 1903.

Sect. 14. Except as herein otherwise provided, this act shall take effect when approved.

MAJORITY REPORT.

The majority of the committee on judiciary to which was referred the bill entitled "An Act to supply the town of Camden with pure water," have had the same under consideration and ask leave to report that the same "ought not to pass."

Per order,

CARLETON,
VIRGIN,
SPOFFORD,
CHASE,
WEBB,
PARKHURST,
WHITE.

MINORITY REPORT.

The minority of the committee on judiciary to which was referred the bill, entitled "An Act to supply the town of Camden with pure water," have had the same under consideration, and ask leave to report the same in a new draft, under title of "An Act to supply the town of Camden with pure water," and that it "ought to pass."

Per order,

GEORGE G. WEEKS, . . .
NATHAN W. HARRIS,
HERBERT T. POWERS.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, March 13, 1901.

Tabled pending acceptance of either report by Mr. SPOFFORD of Deer Isle, and with bill in new draft ordered printed.

W. S. COTTON, *Clerk.*