

# MAINE STATE LEGISLATURE

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# Seventy-first Legislature.

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HOUSE.

No. 135

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## STATE OF MAINE,

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

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AN ACT to supply the town of Lisbon with Pure Water.

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

Section 1. The town of Lisbon, 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 any river, lake, pond, stream, brook, spring or  
5 other water sources, natural or artificial, within the towns  
6 of Lisbon, Bowdoin, Topsham or Webster, sufficient for  
7 domestic purposes in said Lisbon, including a sufficient quan-  
8 tity to extinguish fires, supply hotels, laundries, livery stables,  
9 business places and private dwellings, as well as for the  
10 sprinkling of lawns and streets, and for manufacturing pur-  
11 poses; and for the purposes aforesaid, to convey any of the  
12 waters aforesaid by aqueducts or pipes, sunk to any depth

13 desirable for said purposes, and to lay such aqueducts or  
14 pipes under or over any water course, stream, brook, street,  
15 railroad, highway or other way, in such manner as not  
16 unreasonably to obstruct the same; and to lay down, in and  
17 through streets and ways in said town of Lisbon, and take  
18 up, replace and repair all such aqueducts, pipes or service  
19 pipes, as may be necessary to carry out the purposes of a  
20 complete system of water works.

Sect. 2. The town of Lisbon, by said municipal officers,  
2 or by said commission, may make any necessary contract  
3 with any person, company or corporation for acquiring the  
4 ownership of any aqueduct company or corporation, owning  
5 a system of water works, or any part thereof, in said town  
6 of Lisbon, whereby the said town of Lisbon, by its municipal  
7 officers or said commission, may be entitled to purchase the  
8 whole at any one time, or to purchase the same in install-  
9 ments through a period of years.

Sect. 3. For the purpose of carrying out the provisions  
2 of this act, said town of Lisbon, by its municipal officers,  
3 or said commission, shall have power, and is hereby author-  
4 ized to take and hold by purchase, or otherwise, any lands  
5 or real estate necessary for laying and maintaining pipes,  
6 aqueducts, locks, gates, hydrants, dams, standpipes and reser-  
7 voirs, for taking, conducting, conveying, holding, discharg-  
8 ing and distributing, and for roadways to be used as  
9 approaches thereto, doing no unnecessary damage.

The said town, by its municipal officers, or said commission,  
11 may enter upon said lands or real estate so taken and held  
12 to make surveys and locations, and shall file in the registry  
13 of deeds in the county in which such lands or property lies,  
14 plans of such lands and locations, showing the property taken  
15 within said county, and within thirty days thereafter shall  
16 publish notice of such taking and filing in some newspaper  
17 published in said county wherein said land is taken, such

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

Sect. 4. Should the said town of Lisbon, by its municipal  
2 officers or said commission, and the owner of such land be  
3 unable to agree upon the damages to be paid for such taking,  
4 location and holding, the land owner or the town of Lisbon  
5 by its municipal officers, or said commission, may within  
6 twelve months after the filing of said plans and location,  
7 apply to the commissioners of the county wherein said land  
8 lies, who shall cause such damages to be assessed in the same  
9 manner, and under the same conditions, restrictions, limita-  
10 tions and rights of appeal as are by law prescribed in the  
11 case of damages for the laying out of highways, so far as  
12 such law is consistent with the provisions of this act.

Sect. 5. The town of Lisbon, by its municipal officers or  
2 said commission, is authorized and empowered to contract  
3 with any person or corporation to construct aqueducts, pipes,  
4 locks, gates, hydrants, dams, standpipes and reservoirs and  
5 any other structures necessary for a system of water works,  
6 upon lands taken as hereinbefore prescribed. And in case  
7 any such company or corporation is organized to construct  
8 any such aqueduct, it is empowered to place all or any part  
9 of its capital stock in the name of a trustee, or trustees, and  
10 to contract that said trustee, or trustees, shall sell and deliver  
11 the same to the said town of Lisbon in installments from year  
12 to year, as may be agreed upon.

Sect. 6. For the purpose of carrying into effect the provisions of this act, the town of Lisbon, at a meeting duly called therefor, may as soon as this act takes effect, if it so elects, or at any time thereafter elect by ballot three water commissioners, whose duty it shall be to perform all such acts for the town as are necessary and convenient for the full operation of this act, and such as may be prescribed by town ordinance or lawfully directed by the municipal officers of said town.

The three persons first chosen, as aforesaid, shall serve one for one year, one for two years, one for three years from the date of the annual March meeting, following their election. Their terms of service being designated by the municipal officers of the town of Lisbon, 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 Lisbon may fill any vacancy occurring by death, resignation or otherwise. Until such water commissioners are elected, the municipal officers of said town of Lisbon shall perform the duties of the water commissioners.

Sect. 7. Said municipal officers of said town of Lisbon, or said water commissioners, in case water commissioners are elected as hereinbefore provided, are authorized to fix the rates for water to be paid monthly, quarterly, semi-annually or annually by persons or corporations supplied with the same, or by the State of Maine if so supplied, and in the same manner determine the conditions and methods of such supply, and shall have general charge and control of the town's water system.

Sect. 8. Said town of Lisbon, through its municipal officers, or said commission, is authorized for the purpose of carrying into effect the provisions of this act, to dig up and

4 excavate any highway in said town, lay pipes therein, and  
5 fill the trenches under the directions of the road commis-  
6 sioner of said town or such person as may be acting in that  
7 capacity for the time being.

Sect. 9. Whenever said town of Lisbon, or said trustee,  
2 company or corporation of which either may obtain control,  
3 as provided in section two, either directly or through owner-  
4 ship of stock, shall, under section one, take water from any  
5 of the sources therein named, it shall file in the registry of  
6 deeds, in the county in which such source of supply is located,  
7 a notice of such taking, describing the size, location and  
8 depth of the pipe, or pipes, through which said water is to  
9 be taken from said source or sources.

The said town of Lisbon, or said trustee, company or cor-  
11 poration, shall pay all damages sustained by any person or  
12 corporation in property, by the taking of any water, water  
13 sources, water right, or easement, or by anything done by  
14 said town, or by said trustee, company or corporation first  
15 named in this section, under the authority of this act, which  
16 shall be determined and assessed in the same manner as pro-  
17 vided in section four, for land taken under the provisions  
18 of this act.

Sect. 10. Subject to the provisos hereinafter contained,  
2 the preceding sections of this act shall not take effect, until  
3 the said town of Lisbon shall, by its municipal officers or  
4 by its commission, provided for in section six of this act,  
5 give the Sylvester Aqueduct Company a written notice offer-  
6 ing to buy the property belonging to said company at the  
7 time of such written notice together with such rights and  
8 privileges and franchises of said company pertaining to the  
9 same, except only cash assets, and shall also thereafter pay,  
10 or cause to be paid therefor, a price to be determined in a  
11 manner herein provided. Unless the town of Lisbon, by its  
12 officers aforesaid, and said company shall agree upon the

13 price to be paid, or upon some other method of determining  
14 said price, then within three months, after the giving of said  
15 notice, but not thereafter, either the said town or the said  
16 Sylvester Aqueduct Company may file in the clerk's office  
17 of the supreme judicial court, in and for the county of  
18 Androscoggin, either in term time or vacation, a request to  
19 the court to appoint a commission, for the purposes herein-  
20 after set out, to consist of three disinterested persons, none  
21 of whom shall be residents of Androscoggin county; at least  
22 one of whom shall be a person learned in the law, and at  
23 least one a competent and skillful engineer, and the other a  
24 person well qualified to judge of the value of said property,  
25 rights, privileges and franchises. Thereupon, after reason-  
26 able notice ordered by the court sitting in said county, or  
27 by any judge, either the court, or such judge in vacation, in  
28 said county, or elsewhere, may appoint said commission.

Such commission shall, as soon as may be, after reasonable  
30 notice, hear the parties, their proofs, and arguments, and  
31 determine the value of said property, rights, privileges and  
32 franchises, except only cash assets as aforesaid. In deter-  
33 mining such value the commission shall take into account  
34 any existing contracts between the said company and the  
35 said town of Lisbon, the considerations thereof and all acts  
36 done thereunder or in pursuance thereof.

The commission shall have the power to compel the attend-  
38 ance of witnesses, and the production of books and papers  
39 pertinent to the issue, and may administer oaths; and any  
40 witness or person in charge of such books or papers, refusing  
41 to attend or produce the same, shall be subject to the same  
42 penalties and proceedings, so far as applicable, as witnesses  
43 summoned to attend the supreme judicial court. The com-  
44 mission, or a majority thereof, after such hearing, shall  
45 report to the court, in said county, in term time, what in its

46 judgment is a fair and just value of the property, rights,  
47 privileges and franchises, which it is directed to appraise,  
48 and all other findings which it may have been directed by  
49 the court or judge to make, and such papers and proofs  
50 taken by it, as the court or any judge thereof has directed,  
51 or may from time to time direct to return; and in its report,  
52 the commission shall state the date as of which the value  
53 aforesaid was fixed. The court may confirm such report,  
54 or reject it, or recommit the same, or submit the subject  
55 matter thereof to a new commission. The fees and expenses  
56 of all the commissioners shall be paid to them one-half by  
57 the town of Lisbon and one-half by the Sylvester Aqueduct  
58 Company. All proceedings of the court, or any judge, with  
59 reference to any matter herein, raising a question of law,  
60 whether in term time or vacation, shall be subject to excep-  
61 tions in the manner provided by statute. But notwithstand-  
62 ing said exceptions, the case shall proceed at nisi prius, and  
63 shall not be marked 'law' until after judgment is entered,  
64 as hereinafter set forth, unless the court or the judge being  
65 of opinion that any question involved is sufficiently important;  
66 shall otherwise order. When the court confirms the report  
67 of the commission, it shall enter judgment thereon and within  
68 two calendar months after the entry of such judgment, the  
69 town shall notify the Sylvester Aqueduct Company, in writ-  
70 ing, either of its willingness to purchase said property, rights,  
71 privileges and franchises, at the prices determined by said  
72 judgment, and to pay therefor, or of its determination to  
73 reject the same. And within two calendar months after such  
74 notice is received by said company, it shall notify said town,  
75 in writing, that it will or will not, sell its property as afore-  
76 said at said price. And if said company shall accept the  
77 offer, it shall forthwith cause deeds of transfer and convey-  
78 ance to be made, and filed in the clerk's office of the supreme



79 judicial court in Androscoggin county, for the inspection of  
80 the town of Lisbon, and to be approved by the court or any  
81 justice thereof, in term time or vacation. Said deed shall  
82 convey all the property, rights, privileges and franchises,  
83 except cash assets, then owned by the Sylvester Aqueduct  
84 Company, to said town, or such person or persons or cor-  
85 poration in trust, for the benefit of said town, as the said  
86 town may designate, subject to any mortgages on the prop-  
87 erty, rights, privileges and franchises given to secure the  
88 payments of bonds and notes not then due, existing thereon  
89 at the time the notice is given by the town, as hereinbefore  
90 provided, and subject to a lien for the adjustment of matters  
91 remaining to be adjusted as hereinafter set out. And if said  
92 town shall designate that said property, rights, privileges and  
93 franchises, shall be conveyed to any person or persons, or  
94 corporation, in trust, as aforesaid, it shall also designate the  
95 terms of said trust, which shall be incorporated in said deed.

And when said deed or deeds shall be approved, as afore-  
97 said, they shall be delivered to the said town or said trustee,  
98 as the case may be, and said town or said trustee, shall there-  
99 upon pay said company the amount determined by said judg-  
100 ment, and interest thereon, less the face value and accrued  
101 interest on the bonds and notes secured by mortgage on the  
102 property, rights, privileges and franchises as hereinbefore  
103 provided. The face value and accrued interest on the bonds  
104 and notes secured by an existing mortgage, which the said  
105 town is to have deducted from the amount determined by  
106 said judgment is to be estimated by the three commissioners  
107 provided for in this section, and said commission are there-  
108 upon to determine what deduction shall be made therefor  
109 from said judgment of the value of the property, rights,  
110 privileges and franchises by them found. But in case it  
111 shall be found by said commission that the face value and

112 accrued interest of the bonds and notes secured by any exist-  
113 ing mortgage, is in excess of the amount determined by said  
114 judgment as the fair and just value of the property, rights,  
115 privileges and franchises, which it was directed to appraise  
116 without deducting anything by way of bonds, notes or mort-  
117 gages thereon, then, and in that case, the said commission  
118 is vested with authority and power to make such equitable  
119 adjustment of the amounts to be paid or deducted, by either  
120 party, as to said commission may be deemed proper.

Nothing in this act, nor any proceedings thereunder, so  
122 long as the same are pending, until conveyance is made, as  
123 hereinbefore directed, shall prevent or embarrass the Sylves-  
124 ter Aqueduct Company from supplying water in the town of  
125 Lisbon, as authorized by its incorporation, or making any  
126 improvements which will inure to its own interests, or the  
127 interests of the inhabitants of Lisbon, nor from receiving  
128 water rents, and other dues and tolls, thereafter accruing.

After said property, rights, privileges and franchises as  
130 aforesaid are transferred, as hereinbefore provided, the  
131 court shall take account of all receipts and expenditures  
132 properly had or incurred by the Sylvester Aqueduct Com-  
133 pany, from and after the date on which said property is  
134 valued, as aforesaid, and shall enter judgment for the net  
135 balance for or against the said Sylvester Aqueduct Com-  
136 pany, as the case may be, and shall fix the time within which  
137 the same shall be paid. And in the event the same is in  
138 favor of the Sylvester Aqueduct Company, and not paid  
139 within the time so fixed, the court shall enforce the same  
140 against the property, rights, privileges and franchises, con-  
141 veyed as aforesaid by sale, or otherwise, according to the  
142 principles governing courts in equity, with reference to  
143 enforcing liens and securities, and by execution against the  
144 town, so far as lawfully may be done under the constitution

145 of the State, against such person, or corporation or trustee ;  
146 and in like manner it shall issue execution against the Syl-  
147 vester Aqueduct Company, for any balance then due from  
148 it. When said conveyance is made, as aforesaid, to said  
149 town, or trustee, the town shall thereupon enter into and  
150 upon possession and control of the property, rights, privi-  
151 leges and franchises therein transferred, subject to be  
152 divested thereof only upon a failure to pay the said mort-  
153 gaged indebtedness, as found and determined by the said  
154 commission hereinbefore provided. Provided, nevertheless,  
155 that if the said Sylvester Aqueduct Company shall refuse to  
156 accept the price as determined by said judgment, less the  
157 said mortgaged indebtedness as found by said commission,  
158 or to sell its property therefor, or shall neglect to notify  
159 said town, within the time limited by this section, of their  
160 acceptance or refusal, then all other sections of this act shall  
161 have the same effect as though this section did not exist.

Sect. 11. For the purpose of raising money to carry out the  
2 provisions of this act, the town of Lisbon may issue its bonds,  
3 with interest coupons, in behalf of said town, signed by the  
4 municipal officers of said town, and the treasurer of said  
5 town, when authorized by a vote of said town, to an amount  
6 which, taken in connection with the other indebtedness of  
7 the town, will not exceed the amount limited by the State of  
8 Maine. And such bonds shall be signed by the municipal  
9 officers of the town and the treasurer of said town, but the  
10 coupons need be signed by the treasurer only, and shall be  
11 designated "The Lisbon Water Loan."

Sect. 12. Under the provisions of this act the said town  
2 of Lisbon, by a majority vote at a meeting called for the  
3 purpose or at the regular March meeting, may proceed and  
4 put in water works for one village at a time.

Sect. 13. 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 on  
5 the principal expenditures; unless the Sylvester Aqueduct  
6 Company shall decline to accept the price adjudicated to be  
7 paid by the town of Lisbon, and shall elect to enter into com-  
8 petition with said town in its water supply, in which case the  
9 provisions of this section shall be null and void.

Sect. 14. In case said town of Lisbon, in a legal town  
2 meeting, shall refuse to vote to proceed as a municipality  
3 under the rights, powers and authority herein granted, with  
4 the work of supplying the town of Lisbon with pure water,  
5 or shall fail to take any action in regard to the matter, within  
6 a period of one year from the date of the approval of this  
7 act, then said town at a legal town meeting called and held  
8 for the purpose, or at the annual March meeting, shall have  
9 the right, is hereby granted the authority, provided a major-  
10 ity of its legal voters present so vote, to transfer the rights,  
11 powers, authority and privileges herein granted to the town  
12 of Lisbon, to a corporation which shall be organized for the  
13 purpose of supplying said town with pure water.

Said transfer to be made upon such terms, and under such  
15 conditions, restrictions and limitations as shall be determined  
16 by said town in a legal town meeting and W. E. Plummer,  
17 H. E. Coolidge, G. W. Curtis, William Parkin, E. F. Smith,  
18 A. E. Jordan, C. A. Julia, H. E. Plummer, J. H. Brewster  
19 and their associates are hereby constituted a corporation for  
20 such purpose of supplying the town of Lisbon with pure  
21 water.

Sect. 15. Said corporation for said purpose may hold real  
2 estate not exceeding in value two hundred thousand dollars.

Sect. 16. Said corporation shall have the right to take  
2 water from any river, lake, pond, stream, brook, spring or  
3 other water sources, natural or artificial, within said towns  
4 of Lisbon, Bowdoin, Topsham or Webster and to convey the  
5 same upon such conditions and under such restrictions as are  
6 prescribed in section one of this act.

Sect. 17. Said corporation shall have the right to take  
2 lands or real estate, necessary for laying and maintaining  
3 pipes, aqueducts, locks, gates, hydrants, dams, stand pipes,  
4 reservoirs, and water works structure, upon such conditions  
5 and under such restrictions as are prescribed in section three  
6 of this act.

Sect. 18. Said corporation shall have the right to lay its  
2 pipes or aqueducts under or over any water course, street,  
3 railroad, highway or other way, and in and through the  
4 streets and ways in said town of Lisbon, in such manner,  
5 and under such restrictions as are prescribed in section one  
6 of this act.

Sect. 19. Said corporation shall have the right to settle  
2 damages for the taking and holding of land, or real estate,  
3 for the location of its pipes, aqueducts, locks, gates, hydrants,  
4 dams, stand pipes, reservoirs and water works structures,  
5 and their maintenance upon such terms and conditions, and  
6 in such manner, as is prescribed in section four of this act.

Sect. 20. If it shall be necessary for said corporation to  
2 lay pipes or aqueducts across or under the tracks or location  
3 of any railroad company, and said corporation shall fail to  
4 agree with such railroad company, as to place, manner and  
5 condition of crossing its railroad, with such pipes or aque-  
6 ducts, the place, manner and condition of said crossing shall  
7 be determined by the railroad commissioners, and all work  
8 within the limits of the railroad location shall be done under  
9 the supervision and to the satisfaction of the officers and

10 agents of the railroad company, but at the expense of said  
11 corporation.

Sect. 21. Said corporation shall be responsible for all  
2 damages to persons or property, occasioned by the use and  
3 occupancy of said streets and ways, for the laying of its  
4 pipes and aqueducts and the construction of its locks, gates,  
5 hydrants, dams, stand pipes, reservoirs and water works  
6 structures, and shall pay to said town all sums recovered  
7 against said town for damages from obstruction caused by  
8 said corporation, and for all expenses, including reasonable  
9 counsel fees incurred in defending suits for such damages.

Sect. 22. Said town of Lisbon any time after the expira-  
2 tion of three years from the opening for use and service of  
3 a system of water works constructed by said corporation,  
4 and after a vote in a legal town meeting to that effect has  
5 been passed, shall have the right to purchase, and by this  
6 act said corporation is required to sell, to said town, said  
7 system of water works, including everything appertaining  
8 thereto, and if said town and corporation cannot agree upon  
9 the terms, upon such terms and at such price as shall be  
10 determined and fixed by the chief justice of the supreme court  
11 of the State of Maine after due hearing of the parties inter-  
12 ested, and from the decision of said chief justice there shall  
13 be no appeal.

Sect. 23. Said corporation may make contracts with the  
2 State of Maine, the town through which the pipes of the  
3 system may be laid, or with the corporations and individuals  
4 of said town, for supplying water as contemplated in this act,  
5 and said corporation may establish and fix from time to time  
6 rates for the use of said water, and collect the same and the  
7 town of Lisbon in legal town meeting may authorize its  
8 municipal officers to contract for a supply of water for the  
9 extinguishment of fires, flushing of sewers or other purposes,  
10 for a term of years with said corporation.

Sect. 24. The capital stock of said corporation shall not  
2 exceed two hundred thousand dollars and may be divided  
3 into shares of fifty dollars each.

Sect. 25. Said corporation may issue bonds for the con-  
2 struction of its works, upon such rates and time as it may  
3 deem expedient, not exceeding in amount the amount of cap-  
4 ital stock subscribed for, and secure the same by mortgage  
5 on the franchise and property of said corporation.

Sect. 26. If said corporation shall not be organized and  
2 have its works in actual operation within four years from the  
3 date of approval of this act, the rights and privileges herein  
4 granted, shall be null and void.

Sect. 27. The first meeting of said corporation may be  
2 called by a notice, signed by any one of the corporators,  
3 served upon each corporator, by giving him the same in hand,  
4 or by leaving the same at his last and usual place of abode,  
5 seven days before the time of meeting.

Sect. 28. Except as herein otherwise provided, this act  
2 shall take effect when approved.





STATE OF MAINE.

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IN HOUSE OF REPRESENTATIVES,

AUGUSTA, February 17, 1903.

Tabled pending reference to the Committee on Judiciary, by Mr.  
HINCKLEY of Lisbon, and ordered printed.

W. S. COTTON, *Clerk*