

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# SEVENTY-SECOND LEGISLATURE

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HOUSE.

No. 556

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## STATE OF MAINE.

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

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AN ACT to incorporate the Old Town Water District.

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

Section 1. The territory bounded as follows, and the  
2 people within the same, to wit: Begin at the southeast corner  
3 of the city of Old Town in the county of Penobscot; thence  
4 westward on the south line of said city to the dividing line  
5 between the east and west tiers of lots on Marsh's Island  
6 according to Park Holland's plan of said island; thence  
7 northward by said dividing line (being a part of the west  
8 line of said city) to the south line of lot numbered six on the  
9 west side of said island according to said plan (being a part  
10 of the south line of said city); thence following the bound-  
11 ary line of said city westward, southward, northwestward

12 and northward to the south line of the Barker tract; thence  
13 eastward by the last named south line to the southeast  
14 corner of lot numbered one in the south division of said  
15 Barker tract according to plan of A. S. Howard; thence  
16 northward by the east line of said lot numbered one to the  
17 center line of said Barker tract according to said Howard  
18 plan; thence eastward by said center line to the west shore  
19 of the Stillwater branch of the Penobscot river; thence  
20 northeastward across said branch to the point of intersection  
21 between the east shore of said branch and the north line of  
22 lot numbered nineteen on the west side of Marsh's Island  
23 according to said Holland plan; thence eastward by the last  
24 named north line and the north line of lot numbered twenty  
25 on the east side of said island according to said Holland  
26 plan to the thread of the river between said river and Indian  
27 Old Town island; thence southward by the thread of said  
28 river to the north line of lot numbered seventeen on the east  
29 side of said island according to said Holland plan; thence  
30 eastward by said north line to the east line of said city;  
31 thence southward by said east line to the point of beginning;  
32 shall constitute a body politic and corporate under the name  
33 of the Old Town Water District, for the purpose of supply-  
34 ing the inhabitants of said district and of the town of Mil-  
35 ford, Bradley, together with the city of Old Town, with pure  
36 water for domestic and municipal purposes.

Sect. 2. Said district is hereby authorized for the purpose  
2 aforesaid to take and hold sufficient water of the Penobscot  
3 river and Cold Stream pond in the town of Enfield, and may  
4 take and hold by purchase or otherwise any land or real  
5 estate necessary for erecting dams, power, reservoirs, or for  
6 the preserving of the purity of the water and water shed, and  
7 for laying and maintaining aqueducts for taking, discharging  
8 and disposing of water. Nothing in this act shall authorize

9 said district to increase the present flowage upon Cold  
10 Stream pond.

Sect. 3. Said district shall be liable for all damages that  
2 shall be sustained by any person or corporation in their prop-  
3 erty by the taking of any land whatsoever, or water, or by  
4 flowage, or by excavating through any land for the purpose  
5 of laying pipes, building dams or constructing reservoirs.  
6 If any person sustaining any damage as aforesaid and said  
7 corporation shall not mutually agree upon the sum to be paid  
8 therefor, such person shall cause his damage to be ascer-  
9 tained in the same manner and under the same conditions,  
10 restrictions and limitations as are or may be prescribed in  
11 case of damages by the laying out of highways.

Sect. 4. Said district is hereby authorized to lay in and  
2 through the streets and highways thereof and of said towns  
3 of Milford, Orono, Bradley and the city of Old Town, and  
4 to take up, repair and replace all such pipes, aqueducts and  
5 fixtures as may be necessary for the object above set forth,  
6 and whenever said district shall lay any pipes or aqueducts  
7 in any street or highway it shall cause the same to be done  
8 with as little obstruction as possible to the public travel, and  
9 shall at its own expense without unnecessary delay cause the  
10 earth and pavement removed by it to be replaced in proper  
11 condition.

Sect. 5. All the affairs of said water district shall be man-  
2 aged by a board of trustees composed of three members to  
3 be chosen by the municipal officers of the city of Old Town,  
4 but no member of the city council shall during the term for  
5 which he is elected be chosen one of said board of trustees.  
6 As soon as convenient after the members of said board have  
7 been chosen, said trustees shall hold a meeting at the alder-  
8 men's room in the city of Old Town, and organize by the  
9 election of a president and clerk, adopt a corporate seal, and  
10 when necessary may choose a treasurer and all other needful

11 officers and agents for the proper conduct and management  
12 of the affairs of said district. At said first meeting they  
13 shall determine by lot the term of office of each trustee so  
14 that one shall serve for one year, one for two years and one  
15 for three years; and whenever the term of office of a trustee  
16 expires the said municipal officers of the city of Old Town  
17 shall appoint a successor for the full term of three years; and  
18 in case any other vacancy arises it shall be filled in like man-  
19 ner for the unexpired term. They may also ordain and  
20 establish such by-laws as are necessary for their own con-  
21 venience and the proper management of the affairs of the  
22 district. The term of office of the trustees shall begin on  
23 the first Monday in April. Said trustees may procure an  
24 office and incur such expense as may be necessary. Each  
25 member shall receive in full compensation for his services  
26 an allowance of one hundred dollars per annum.

Sect. 6. Said water district is hereby authorized and  
2 empowered to acquire by purchase or by the exercise of the  
3 right of eminent domain, which right is hereby expressly  
4 delegated to said district for said purposes, the entire plant,  
5 property, franchises, rights and privilege now held by the  
6 Public Works Company within said district and said towns  
7 including all lands, water, water rights, dams, reservoirs,  
8 pipes, machinery, fixtures, tools, and all apparatus and  
9 appliances owned by said company and used or usable in  
10 supplying water in said district and towns and any other  
11 real estate in said district.

Sect. 7. In case said trustees fail to agree with said Public  
2 Works Company upon the terms of purchase of the above  
3 mentioned property, said water district, through its trustees  
4 is hereby authorized to take said plant, property and fran-  
5 chises as for public uses by petition therefor in the manner  
6 hereinafter provided. And said trustees for said water dis-  
7 trict is hereby authorized to file a petition in the clerk's

8 office of the supreme judicial court for the county of Penob-  
9 scot in term time or in vacation, addressed to any justice of  
10 said court, who after notice to said Public Works Company  
11 and all parties interested therein, shall after hearing and  
12 within thirty days after the filing of said petition appoint  
13 three disinterested appraisers, none of whom shall be resi-  
14 dents of the said county of Penobscot, one of whom shall be  
15 learned in the law, for the purpose of fixing the valuation  
16 of said plant, property and franchises. The said appraisers  
17 shall have the power of compelling attendance of witnesses  
18 and the production of books and papers pertinent to the  
19 issue, and may administer oaths; and any witness or person  
20 in charge of such books or papers, refusing to attend, or to  
21 produce the same, shall be subject to the same penalties and  
22 proceedings, so far as applicable, as witnesses summoned to  
23 attend the supreme judicial court. The appraisers so  
24 appointed shall after due notice and hearing fix the valu-  
25 ation of said plant, property and franchises at what they are  
26 fairly and equitably worth, so that said Public Works Com-  
27 pany shall receive just compensation for the same. The  
28 report of said appraisers or a majority of them, shall be filed  
29 in the said clerk's office in term time or in vacation within  
30 five months after their appointment, and such single justice,  
31 or in case of his inability to act, then any justice designated  
32 by the chief justice, may, after notice and hearing, confirm  
33 or reject the same, or recommit it if justice so requires. The  
34 award of the appraisers shall be conclusive as to valuation.  
35 Upon the confirmation of said report the court so sitting  
36 shall thereupon, after hearing, make final decree upon the  
37 entire matter, including the application of the purchase  
38 money, discharge of incumbrances, if any, and transfer of  
39 the property, jurisdiction over which is hereby conferred  
40 with the same power to enforce said decree as in equity cases.  
41 Upon the request of either party the justice making such

42 final decree shall make separate findings of law and of fact.  
43 All such findings of fact shall be final, but either party  
44 aggrieved may take exceptions to any ruling of law so made,  
45 the same to be accompanied only by such parts of the case  
46 as are necessary to a clear understanding of the questions  
47 raised thereby. Such exceptions shall be claimed on the  
48 docket within ten days after such final decree is signed,  
49 entered and filed, and notice thereof has been given by the  
50 clerk to the parties or their counsel, and said exceptions so  
51 claimed shall be made up, allowed and filed within said time  
52 unless further time is granted by the court or by agreement  
53 of parties. They shall be entered at the next term of the  
54 law court to be held after the filing of said decree and there  
55 heard, unless otherwise agreed or the law court shall for  
56 good cause order a further time for hearing thereon. Upon  
57 such hearing the law court may confirm, reverse or modify  
58 the decree of the court below, or remand the cause for fur-  
59 ther proceedings as it seems proper. During the pendency  
60 of such exceptions the cause shall remain on the docket  
61 below marked "law" and decree shall be entered thereon by  
62 a single justice in term time or vacation, in accordance with  
63 the certificate and opinion of the law court. Before such  
64 property and franchises are transferred in accordance with  
65 such final decree and before the payment therefor, the court  
66 sitting in said county of Penobscot by a single justice thereof  
67 as hereinbefore provided, shall, upon motion of either party,  
68 after notice and hearing, take account of all receipts and  
69 expenditures properly had or incurred by the Public Works  
70 Company belonging to the period from and after the filing  
71 of said petition, and all the rents and profits accruing there-  
72 after, and shall order the net balance due either party to be  
73 added or deducted from the amount to be paid under said  
74 final decree, as the case may be. All findings of law or fact  
75 by such single justice at such hearing shall be final. On

76 payment or tender by said district of the amount so fixed  
77 and the performance of all other terms and conditions so  
78 imposed by the court, said entire plant, property and iran-  
79 chises shall become vested in said water district and be free  
80 from all liens, mortgages and incumbrances theretofore cre-  
81 ated by the said Public Works Company.

Sect. 8. All valid contracts now existing between the  
2 Public Works Company and any person or corporation for  
3 supplying water within said district and in the towns here-  
4 tofore mentioned shall upon the transfer of said company's  
5 property and franchise to said district be assumed and car-  
6 ried out by the Old Town Water District.

Sect. 9. For accomplishing the purposes of this act said  
2 water district, through its trustees, is authorized to issue its  
3 bonds to an amount sufficient to procure funds to pay the  
4 expenses incurred in the acquisition of the property of the  
5 Public Works Company, and the purchase thereof and for  
6 the construction of said district's system and to secure a new  
7 source of water supply or the improvement of the present  
8 supply. Said bonds shall be a legal obligation of said water  
9 district, which is hereby declared to be a quasi municipal  
10 corporation within the meaning of section ninety-six, chap-  
11 ter forty-eight of the Revised Statutes, and all the provisions  
12 of said section shall be applicable thereto. Said bonds shall  
13 be a legal investment for savings banks.

Sect. 10. All individuals, firms, and corporations, whether  
2 private, public or municipal, shall pay to the treasurer of  
3 said water district the rates established by said board of  
4 trustees for the water used by them, and said rates shall be  
5 uniform within the territory supplied by the district. Said  
6 rates shall be so established to provide revenue for the fol-  
7 lowing purposes:



I. To pay the current running expenses for maintaining the water system and to provide for such extensions and renewals as may become necessary.

II. To provide for payment of interest on the indebtedness of the district.

III. To provide each year a sum equal to not less than one nor more than five per cent of the entire indebtedness of the district, which sum shall be turned into a sinking fund to provide for the final extinguishment of the funded debt. The money set aside for the sinking fund shall be devoted to the retirement of the obligations of the district, or invested in such securities as savings banks are allowed to hold.

Sect. 11. All incidental powers, rights and privileges necessary to the accomplishment of the main object herein set forth are granted to the corporation hereby created.

Sect. 12. This act shall take effect when approved by a majority vote of the legal voters within said district, voting at an election specially called and held for the purpose, by the municipal officers of the city of Old Town, to be held at the voting places in each ward in said city; the date of holding said election to be determined by said municipal officers, upon the written request of twenty legal voters in said district. The board of registration shall make and provide a separate check list for such voters within wards four and five of said city as are then legal voters of said city, and all warrants issued to said wards shall be varied accordingly to show that only such voters therein are entitled to vote thereon. Such special election shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the board of registration shall not be required to prepare nor the city clerk to post a new list of voters; and for this purpose said board of registration shall be in session on the three secular days next preceding

19 said election, the first two days thereof to be devoted to reg-  
20 istration of voters and the last day to enable the board to  
21 verify the corrections of said list and to complete and close  
22 up its records of said sessions. The city clerk shall reduce  
23 the subject matter of this act to the following question:  
24 "Shall the act to incorporate the Old Town Water District  
25 be accepted?" and the voters shall indicate by a cross placed  
26 against the words "yes" or "no" their opinion of the same.  
27 The result shall be declared by the mayor and aldermen and  
28 due certificate thereof filed with the secretary of state by  
29 the clerk of said city. This act shall take effect when  
30 approved by the governor so far as necessary to empower  
31 the calling and holding of such election.

Sect. 13. Sections two, three and four of this act shall be  
2 inoperative, null and void, unless said water district shall  
3 first acquire by purchase or by the exercise of the right of  
4 eminent domain as in this act provided, the plant, property  
5 and franchise, rights and privileges now held by the Public  
6 Works Company within said district and said towns of Mil-  
7 ford, Bradley and said city of Old Town.

Sect. 14. All costs and expenses arising under the pro-  
2 visions of this act shall be paid and borne as follows: All  
3 costs and expenses arising under or by reason of the call  
4 for special election provided for in section 12, shall be paid  
5 and borne by the city of Old Town and all other costs and  
6 expenses shall be borne and paid as directed by the court in  
7 the final decree.





STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,  
Augusta, March 16, 1905.

Reported by Mr. LITTLEFIELD from Committee on Judiciary and  
ordered printed under joint rules.

E. M. THOMPSON, *Clerk.*