

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)

SEVENTY-THIRD LEGISLATURE

HOUSE.

No. 665

STATE OF MAINE.

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

AN ACT to incorporate the Calais Water District.

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

Section 1. The present and future inhabitants of the following described portion of the city of Calais, in the county of Washington, are hereby constituted a body politic and corporate by the name of Calais Water District, for the purpose of supplying the inhabitants of said district and the city of Calais, with pure water for domestic, sanitary, industrial, commercial and municipal purposes, including the extinguishment of fire, and said territory shall constitute the territory of said district, and is bounded and described as follows:

Beginning at a point at or near low water mark on the
12 southerly side of Jewett's wharf, so called, on the St. Croix
13 river, and in the city of Calais, and continuing south sixty-
14 eight degrees west, as near as may be, and about two miles
15 and seven hundred yards to the intersection of Maguerra-
16 wock stream and the county road, wherever such line may
17 be hereafter located, and thence in a westerly direction along
18 the course of said stream to the St. Croix river, and thence
19 along the course of said river to the first mentioned bound.

Sect. 2. All the powers, duties, management and control
2 of said corporation are vested in a board of three trustees,
3 all of whom shall be residents of said district, but no person
4 while holding any municipal office in said Calais shall be
5 eligible as such trustee. Said trustees shall be elected by
6 the city council of Calais as follows:

After the approval of this act by the governor, and imme-
8 diately after its acceptance by the qualified voters within said
9 district, as hereinafter provided, all three trustees shall be
10 elected by said city council. As soon as convenient after the
11 members of said board have been chosen, said trustees shall
12 hold a meeting at the city rooms in the city of Calais, and
13 organize by the election of a president and clerk, adopt a
14 corporate seal, and when necessary, may choose a treasurer
15 and shall have the power to appoint all necessary subordinate
16 officers, or employees, and fix their respective salaries or
17 wages.

The treasurer, and any other officer or servant or said dis-
19 trict having custody of the funds of said district, shall, before
20 entering on the duties of his office, each give bond to said

21 district, with sureties, or the bond of a surety company, to
22 the satisfaction of the municipal officers of the city of Calais,
23 for the faithful discharge of his duties. The expense of
24 procuring such bond shall be paid by said district.

At the first meeting they shall determine by lot the term
26 of office of each trustee, so that one shall serve for one year,
27 one for two years, and one for three years, and whenever
28 the term of office of a trustee expires, the said municipal
29 officers of the city of Calais, shall appoint a successor to
30 serve the full term of three years, and in case any other
31 vacancy arises, it shall be filled in like manner for the unex-
32 pired term. They shall also ordain and establish such
33 by-laws as are necessary for their own convenience and the
34 proper management of the district, and such by-laws shall
35 not be adopted until approved by the mayor and aldermen
36 of the city of Calais. The term of trustees shall begin on
37 the first Monday of September. Said trustees may procure
38 an office and incur such expenses only as may be provided
39 for in the by-laws to be adopted as hereinbefore provided.
40 Each trustee shall receive in full compensation for his ser-
41 vices an allowance of one hundred dollars per annum, or such
42 other less sum as said district at any legal meeting may
43 prescribe.

Sect. 3. No such trustee nor any firm or corporation of
2 which he is a member or by whom he is employed shall enter
3 into any contract with said corporation or sell to said corpo-
4 ration any tools, machinery or material to be used in the
5 construction, repair or maintenance of the property of said
6 corporation, and all such contracts or sales shall be absolutely
7 void.

Sect. 4. The trustees of said Calais Water District shall,
2 at the beginning of each municipal year of said city of Calais,
3 present to the incoming city government of said city a
4 detailed report for the past municipal year of their doings,
5 of the receipts and expenditures of said water district, of its
6 financial and physical condition, and such other matters and
7 things pertaining to said corporation as shall show the inhab-
8 itants of said district how said trustees are fulfilling their
9 duties and the obligations of their trust.

Sect. 5. Said district is hereby authorized for the purpose
2 aforesaid to erect and maintain dams, reservoirs, filters and
3 standpipes, and to lay and maintain pipes and aqueducts
4 necessary and proper for accumulating, storing, conducting,
5 discharging, distributing, supplying and selling water, and
6 said district may take and hold by purchase or otherwise,
7 any land or real estate necessary therefor, and said district
8 may take and store and use the water of any river, stream,
9 lake or pond in the city of Calais, or in the towns of Baring,
10 Meddybemps and Robbinston, in said county of Washington.
11 Said district may connect its pipes with the pipes of other
12 water companies and may sell to such other companies, or
13 may buy water from such companies, on such terms as may
14 be agreed upon.

Sect. 6. Said district shall be liable for all damages that
2 shall be sustained by any person or corporation in their
3 property by the taking of any land whatsoever, or water, or
4 by flowage or by excavating through any land for the pur-
5 pose of laying pipes, buildings dams or constructing reser-
6 voirs. If any person sustaining damages as aforesaid and

7 said corporation shall not mutually agree upon the sum to
8 be paid therefor, such person may cause his damages to be
9 ascertained in the same manner and under the same condi-
10 tions, restrictions and limitations as are, or may be pre-
11 scribed, in the case of damages by the laying out of high-
12 ways.

Sect. 7. Said district is hereby authorized to lay in and
2 through the streets and highways thereof, and to take up,
3 repair and replace all such pipes, aqueducts and fixtures as
4 may be necessary for the purposes hereinbefore mentioned,
5 and whenever said district shall lay any pipes or aqueducts
6 in any street or highway it shall cause the same to be done
7 with as little obstruction as possible to the public travel, and
8 shall, at its own expense, without unnecessary delay, cause
9 the earth and pavement removed by it to be replaced in
10 proper condition, to be approved by the road commissioner
11 of the city of Calais. Said district shall have power to cross
12 any water-course, private, or public sewer, but in such man-
13 ner as not to obstruct or impair the use thereof, or with the
14 consent of the city council of said city to change the direction
15 thereof. Whenever said corporation shall lay any main or
16 service pipe, notice thereof shall first be given to the street
17 commissioner of said city.

Sect. 8. Said water district is hereby authorized and
2 empowered to acquire by purchase, or by the right of emi-
3 nent domain, which right is hereby expressly delegated to
4 said district for said purpose, the entire plant, property and
5 franchises, rights and privileges, now held by the Maine
6 Water Company within said district, excepting its cash assets

7 but including all lands, waters, water rights, dams, reser-
8 voirs, pipes, machinery, fixtures, hydrants, tools and all
9 apparatus and appliances owned by said company, and used
10 or usable in supplying water in said district and any other
11 real estate in said district.

Sect. 9. In case said trustees fail to agree with said Maine
2 Water Company upon the terms of purchase of the above
3 named property on or before the first day of October, 1907,
4 said water district through its trustees is hereby authorized
5 to take said plant, property and franchises as for public uses
6 by petition therefor in the manner hereinafter provided.
7 And said water district through its trustees is hereby author-
8 ized, on or before the eighth day of October, 1907, to file a
9 petition in the clerk's office of the supreme judicial court
10 for the county of Washington in term time or vacation,
11 addressed to any justice of said court, who, after notice to
12 said Maine Water Company, and its mortgagees, shall after
13 hearing and within thirty days, unless for good cause shown
14 such time shall be extended by the court, after the filing of
15 said petition appoint three disinterested appraisers, none of
16 whom shall be residents of the counties of Washington, Ken-
17 nebec or Cumberland, one of whom shall be learned in the
18 law, for the purpose of fixing the valuation of said plant,
19 property and franchises and of assessing the additional dam-
20 ages, if any, suffered by the said Maine Water Company by
21 reason of the taking of said plant, property and franchises,
22 and of the severance thereof from the entire water system
23 and franchises, as now operated by said company, composed
24 of said Calais and of the town of Milltown, New Brunswick;

25 it being the intent of this act that the amount of said valu-
26 ation and of said additional damages, if any, taken together,
27 shall be so fixed as to equal the difference between the valu-
28 ation, before severance, of the entire plant, property and
29 franchises in said Calais and Milltown, New Brunswick,
30 now held by said Maine Water Company in fee and as lessee
31 of the St. Croix Electric Light and Water Company on the
32 one hand, and the valuation after severance of the plant,
33 property and franchises of said Maine Water Company in
34 Milltown, New Brunswick, in fee and as lessee as aforesaid
35 on the other hand, said valuations both before and after sev-
36 erance to be determined under the principles of eminent
37 domain; and, said Maine Water Company having on the
38 twenty-eighth day of June, 1906, entered into an agreement
39 with the town of St. Stephen, New Brunswick, to which
40 agreement reference is hereby made for the terms and con-
41 ditions thereof, for the purchase of water for the purpose
42 of supplying the inhabitants of said Calais and Milltown
43 with water for domestic and municipal purposes, said ap-
44 praisers shall also assess the additional damages, if any,
45 suffered and to be suffered by said Maine Water Company
46 by reason of taking from it said plant, property and fran-
47 chises and leaving it under the obligation to perform said
48 agreement and by reason of the severance, as aforesaid, of
49 said plant, property and franchises from the entire system
50 and franchises in said Calais and Milltown of said company
51 in fee and as lessee as aforesaid after said agreement had
52 been entered into to supply as aforesaid all said system.
53 The said appraisers shall have the power to compel the

54 attendance of witnesses and the production of books and
55 papers pertinent to the issue and may administer oaths; and
56 any witness or person in charge of such books or papers,
57 refusing to attend or produce the same, shall be subject to
58 the same penalties and proceedings so far as applicable, as
59 witnesses summoned to attend the supreme judicial court.
60 The appraisers so appointed shall, after due notice and hear-
61 ing, fix all valuations of plants, properties and franchises,
62 and assess all damages, if any, in the manner heretofore
63 detailed by this act, so that said Maine Water Company shall
64 receive just compensation for the taking of the plant, prop-
65 erty and franchises in said district and for the severance
66 thereof from the entire water system and franchises above
67 described of said company in fee and as lessee and by reason
68 of said company being left under the obligation of said
69 agreement and by reason of the severance of the plant, prop-
70 erty and franchises in said district from said entire system
71 after said agreement had been made as and for the purpose
72 aforesaid. The first day of January, 1908, shall be the date
73 as of which the valuation aforesaid shall be fixed, from which
74 day interest on said award shall run and all net rents and
75 profits accruing thereafter shall belong to said water district.
76 The report of said appraisers, or a majority of them, shall
77 be filed in said clerk's office in term time or vacation as soon
78 as may be after their appointment, and such single justice,
79 or in case of his inability to act, then any justice designated
80 for the purpose by the chief justice, may, after notice and
81 hearing, confirm, or reject the same, or recommit it, if jus-
82 tice so requires. The award of the appraisers shall be con-

83 clusive as to valuations and damages. Upon the confirma-
84 tion of said report the court so sitting shall thereupon, after
85 hearing, make final decree, upon the entire matter, including
86 the application of the purchase money, discharge of encum-
87 brances and transfer of the property, jurisdiction over which
88 is hereby conferred with the same power to enforce said
89 decree as in equity cases. Upon request of either party the
90 justice so making such final decree shall make separate find-
91 ings of law and fact. All such findings of fact shall be final,
92 but either party aggrieved may take exceptions to rulings
93 of law so made, the same to be accompanied only by such
94 parts of the case as are necessary to a clear understanding
95 of the questions raised thereby. Such exceptions shall be
96 claimed on the docket within ten days after such final decree
97 is signed, entered and filed, and notice thereof has been
98 given by the clerk to the parties or their counsel, and said
99 exceptions so claimed shall be made up, allowed and filed
100 within said time unless further time is granted by the court
101 or by agreement of parties. They shall be entered at the
102 next term of the law court, to be held after the filing of
103 said decree and there heard, unless otherwise agreed, or
104 the law court shall for good cause order a further time for
105 hearing thereon. Upon such hearing the law court may
106 confirm, reverse or modify the decree of the court below
107 or remand the cause for further proceedings as it deems
108 proper. During the pendency of such exceptions the cause
109 shall remain on the docket of the court below marked
110 "Law," and decree shall be entered thereon by a single
111 justice in term time or in vacation, in accordance with the

112 certificate and opinion of the law court. Before said plant,
113 property and franchises are transferred in accordance with
114 such final decree, and before payment therefor, the court
115 sitting in said county of Washington by single justice there-
116 of, as hereinbefore provided, shall, upon motion of either
117 party, after notice and hearing, take account of all receipts
118 and expenditures properly had or incurred by the Maine
119 Water Company belonging to the period from and after
120 January first, 1908, and all net rents and profits accruing
121 thereafter, and shall order the net balance to be added to
122 or deducted from the amount to be paid under said final
123 decree, as the case may be. All findings of law or fact by
124 such single justice at such hearing shall be final. On pay-
125 ment or tender by said district of the amount so fixed,
126 including such additional damages, if any, and the per-
127 formance of all other terms and conditions so imposed by
128 the court, said entire plant, property and franchises within
129 said district shall become vested in said water district and
130 be free from all liens, mortgages and encumbrances there-
131 tofore created by the Maine Water Company. After the
132 filing of said petition it shall not be discontinued or with-
133 drawn by said water district, and the said Maine Water
134 Company may thereafterwards, on its part, cause said valu-
135 ation and assessment to be made as herein provided, and
136 shall be entitled to appropriate process to compel said water
137 district to perform the terms of the final decree, and to pay
138 for said plant, property and franchises in accordance there-
139 with.

Sect. 10. All valid contracts now existing between the
2 Maine Water Company and any person, persons, firm or cor-

3 poration, for supplying water within said district, shall be
4 assumed and carried out by said Calais Water District,
5 excepting the aforesaid agreement with the town of St.
6 Stephen.

Sect. 11. Before entering into any contract for the erection
2 and maintenance of the water system as provided in this act,
3 the trustees of said district shall first ascertain at what cost
4 a suitable water system can be installed, and shall procure
5 from responsible parties and under a sufficient guarantee for
6 the faithful performance of any contract provided for there-
7 in, proposals for installing a complete water system for said
8 water district in the city of Calais, and then submit such
9 proposal to the legal voters of said district for their approval.
10 The city clerk shall reduce the subject matter of this section
11 to the following question: "Shall the proposal of (naming
12 the party making the proposal) to install a water system in
13 the city of Calais be accepted?" and the voters shall indicate
14 by a cross against the words "yes" or "no" their opinion of
15 the same. The calling and holding of the meeting for the
16 purposes above mentioned and the voting and declaring the
17 same hereunder, and all other legal requirements of said
18 vote, shall be had in accordance with the provisions of sec-
19 tion sixteen of this act.

Sect. 12. If the legal voters of said district shall, by a
2 majority vote, approve a contract for constructing and instal-
3 ling a water system as hereinbefore provided, said water
4 district, for accomplishing the purposes of this act, is author-
5 ized and empowered to issue its bonds to an amount suffi-
6 cient to procure funds for the construction, erection and

7 extension of its works, and the acquisition of the property
8 of the Maine Water Company and the purchase thereof, and
9 to secure a source of supply. Said bonds to be issued
10 through the trustees of said district, and upon such time and
11 for such amounts and at such rates as said trustees with the
12 approval of the mayor and aldermen of said Calais may
13 determine. Said bonds shall be a legal obligation of said
14 water district, which is hereby declared to be a quasi municipi-
15 pal corporation within the meaning of section ninety-six,
16 chapter forty-seven of the revised statutes, and all the provi-
17 sions of said section shall be applicable thereto. The said
18 bonds shall be a legal investment for savings banks.

Sect. 13. All individuals, firms and corporations, whether
2 private, public or municipal, shall pay to the treasurer of
3 said corporation the rates established by its board of trustees
4 aforesaid for the water used by them, and said rates shall be
5 uniform within the district. Said rates shall be so estab-
6 lished as to provide revenue for the following purposes:

1. To pay the current expenses for maintaining the water
8 system and provide for such extensions and renewals as may
9 become necessary.

2. To provide for payment of interest on the indebtedness
11 of the district.

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

4. If any surplus remains at the end of the year, it shall
20 be paid into said sinking fund.

Sect. 14. All incidental powers, rights and privileges
2 necessary to the accomplishment of the main object herein
3 set forth are granted to the corporation hereby created.

Sect. 15. The property of said district shall be exempt
2 from taxation.

Sect. 16. This act shall take effect when accepted by a
2 majority vote of the legal voters within said district voting
3 at an election to be specially called and held for the purpose
4 on the first Monday of July, nineteen hundred and seven.
5 The board of registration shall make and provide a separate
6 check list for such of the voters within said district as are
7 then legal voters of said city, and all warrants issued to said
8 city shall be varied accordingly to show that only such voters
9 therein are entitled to vote hereon. Such special election
10 shall be called, advertised and conducted according to the
11 law relating to municipal elections, provided, however, that
12 the board of registration shall not be required to prepare
13 or the city clerk to post a new list of voters, and for this pur-
14 pose said board shall be in session the three secular days
15 next preceding such election, the first two days thereof to
16 be devoted to registration of voters, and the last day to
17 enable the board to verify the correctness of said lists and
18 to complete and close up its records of said session. The
19 city clerk shall reduce the subject matter of this act to the
20 following question: "Shall the act to incorporate the Calais
21 Water District be accepted?" and the voters shall indicate
22 by a cross placed against the words "yes" or "no" their opin-

23 ion of the same. The result shall be declared by the mayor
24 and aldermen and due certificate thereof filed with the secre-
25 tary of state by the city clerk. This act shall take effect
26 when approved by the Governor, so far as necessary to em-
27 power the calling and holding of such election. The accept-
28 ance of this act by said water district in the manner provided
29 by this section shall constitute an acceptance by said water
30 district of the methods of appraisal and the items to be ap-
31 praised provided by section nine hereof, and shall bind said
32 water district and said Maine Water Company thereto.

Sect. 17. Sections five, six, seven and twelve shall be inop-
2 erative, null and void unless said water district shall first
3 acquire by purchase or by the exercise of the right of emi-
4 nent domain, as in this act provided, the plants, properties
5 and franchises, rights and privileges now held by said Maine
6 Water Company within said district.

Sect. 18. All costs and expenses arising under the pro-
2 visions of this act shall be paid and borne as directed by the
3 court in the final decree provided by section nine.



STATE OF MAINE.

HOUSE OF REPRESENTATIVES,

Augusta, March 21, 1907.

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

E. M. THOMPSON, *Clerk.*