

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

HOUSE

NO. 958

House of Representatives, March 26, 1915.

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

C. C. HARVEY, Clerk.

STATE OF MAINE

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

AN ACT to Amend Chapter One Hundred and Twenty-one of
the Private and Special Laws of Nineteen Hundred and
Thirteen, entitled, "An Act to Incorporate the Madison Wa-
ter District."

Be it enacted by the People of the State of Maine, as follows:

That sections two, seven, nine, ten, fifteen and sixteen of
2 Chapter one hundred and twenty-one of the Private and
3 Special laws of nineteen hundred and thirteen, be and the
4 same are hereby amended so as to read as follows:

'Sect. 2. Said district is hereby authorized for the pur-
6 poses aforesaid to take, hold, divert, use and distribute suffi-
7 cient water of the Kennebec river, Madison pond or Hay-
8 den lake, so called, Embden pond, or of any of their tribu-

9 tary lakes or streams; and also sufficient water of any sur-
10 face or underground brooks, streams and springs and the
11 land in or on which the same are located, within or without
12 the limits of said district.

‘Sect. 7. All the affairs of said district shall be managed
14 by a board of trustees of three members to be elected by
15 a plurality vote of the legal voters within said district at an
16 election to be specially called and held within thirty days
17 after the approval of this act by the legal voters of said dis-
18 trict. Such special election shall be called, held and con-
19 ducted in the same manners as meetings of Madison Vil-
20 lage Corporation are now called and held. All records of
21 the meetings and other business of the district shall be kept
22 by the clerk of said Madison Village Corporation for the
23 time being. The term of office of the trustees first chosen
24 shall be considered to begin on the first Monday of July of
25 the year of the acceptance of this act by said district. As
26 soon as convenient after the members of said board have
27 been chosen said trustees shall hold a meeting at some con-
28 venient place within said Madison Village Corporation and
29 organize by the election of a president, adopt a corporate
30 seal, and when necessary may choose a treasurer and all
31 other needful officers and agents for the proper conduct and
32 management of the affairs of said district. At said first
33 meeting they shall determine by lot the term of office of
34 each trustee so that one shall serve for one year, one for
35 two years, and one for three years: and whenever the term

36 of office of a trustee expires his successor shall be elected
37 by a plurality vote by the legal voters of said district for the
38 term of three years; and in case any vacancy shall arise it
39 shall be filled for the remainder of the year by appointment
40 by the remaining members of the board of trustees, and at
41 the next regular meeting of the district the vacancy shall be
42 filled for the remainder of the term in the manner herein-
43 before set forth. The assessors of Madison Village Corpor-
44 ation for the time being shall be eligible to election to the
45 board of trustees, and treasurer of Madison Village Cor-
46 poration shall be eligible to election as treasurer of said
47 trustees or district. The trustees, treasurer and clerk shall
48 receive for their services as such such compensation as the
49 district by vote shall from time to time determine.

Provided, however, that if that part of Anson formerly
51 comprising school district number thirteen in said town
52 shall by a majority of the legal voters of said district, at a
53 meeting specially called and held for the purpose on or be-
54 fore the first Monday of July, one thousand nine hundred
55 and sixteen, vote to accept the provisions of this act, it shall
56 thereby become a part of said water district and entitled to
57 all its rights and privileges and subject to all the liabilities
58 and obligations thereof, and in such case said part of said
59 Anson shall have the right to and shall choose by a plural-
60 ity vote two trustees to act with and become a part of the
61 board of trustees as hereinbefore provided for the man-
62 agement of all the affairs of said district. The term of
63 office of such trustees first chosen shall be considered to be-

64 gin on the first Monday of July, of the year of the accept-
65 ance of this act by said part of said district and, together
66 with the three trustees chosen as hereinbefore set forth,
67 form a joint board for the management of the affairs of
68 said district and have a right to take part in the organiza-
69 tion and all of the meetings and business of said board. The
70 two trustee first elected shall serve one for one year and one
71 for two years, and annually thereafter at the regular an-
72 nual meeting of the legal voters of that part of Anson con-
73 stituting what was formerly school district number thirteen
74 shall elect one trustee to serve for the term of two years.
75 The two trustees first so elected shall decide by lot their re-
76 spective terms of office. Any vacancy occurring in the
77 terms of either of said two trustees shall be filled for the
78 remainder of the term at a special meeting of the legal vot-
79 ers of said part of said district in said Anson legally called
80 and held.

Said trustees may also ordain and establish such by-laws
82 as are necessary for their own convenience and the proper
83 management of the affairs of the district. At the close of
84 each fiscal year the trustees shall make a detailed report of
85 their doings, of the receipts and expenditures of said water
86 district, of its financial and physical conditions, and of such
87 other matters and things pertaining to said district as shall
88 show to the inhabitants of said district a full and true
89 standing of its conditions and how said trustees are fulfill-
90 ing the duties and obligations of their trust. Said report

91 shall be either written or printed for distribution to the in-
92 habitants of said district. The books and accounts pertain-
93 ing to the receipts and expenditures of money shall be au-
94 dited by the auditor of Madison Village Corporation for the
95 time being.

‘Sect. 9. In case the said trustees fail to agree with said
97 Madison Water Company and any other company organized
98 or doing business in said district for said purpose upon the
99 terms of purchase of the above mentioned rights and prop-
100 erties on or before the first Monday of September, one
101 thousand nine hundred and sixteen, said water district
102 through its trustees is hereby authorized and empowered
103 to take such plant, property and franchises for public
104 uses by petition therefor in the manner hereinafter pro-
105 vided. The said water district through its trustees is
106 hereby authorized, on or before the eighth day of Septem-
107 ber, one thousand nine hundred and sixteen, to file a peti-
108 tion in the clerk’s office of the supreme judicial court for
109 the county of Somerset, in term time or in vacation, ad-
110 dressed to any justice of said court, who, after notice to
111 said Madison Water Company and its mortgages, if any,
112 and to any other company or companies organized and do-
113 ing business for said purpose in said district, shall, after
114 hearing, and within thirty days after the filing of said pe-
115 tition, appoint three disinterested appraisers, none of whom
116 shall be residents either of the county of Somerset or
117 Kennebec, one of whom shall be learned in the law, for the

118 purpose of fixing the valuation of said plant or plants,
119 property and franchises as described in section eight here-
120 of. Said petition shall not be dismissed after filing but
121 may and shall be amended in any manner required to en-
122 able the court to make all necessary decrees thereon. At
123 the hearing aforesaid, such justice, upon motion of the
124 petitioner, may order the production and filing in court, for
125 the inspection of the petitioner, of all books and papers
126 pertinent to the issue and necessary for a full understand-
127 ing of the matter to be heard by said appraisers, the terms
128 and conditions of so producing and filing such books and
129 papers to be determined by said justice in his order there-
130 for and to be enforced from time to time as any justice
131 of said supreme judicial court, in term time or in vacation,
132 upon motion of either party, may deem reasonable and
133 proper in the premises. At such hearing, such justice up-
134 on motion of the petitioner, may fix a time at which the
135 said water company or companies shall file in the clerk's
136 office of the supreme judicial court for the county of Som-
137 erset, for the inspection of the petitioner, the following:
138 First, schedules showing the names, residences and water
139 service of all customers on the first day of July in the
140 year of the filing of said petition, with the rate charged
141 therefor; second, copies of all contracts in force on said
142 July first; third, an itemized statement of the gross in-
143 come earned during its last complete fiscal year and all op-
144 erating expenses and fixed charges, paid or incurred dur-

145 ing such year and properly chargeable thereto; fourth, a
146 memorandum of all real estate, water rights, or interest
147 therein, owned or controlled on said July first, with such
148 brief description thereof as will reasonably identify the
149 same; fifth, brief descriptions, specifications and plans of
150 all reservoirs, mains, pipes, service pipes, hydrants, gates,
151 gate boxes, shut off boxes, fixtures and machinery and all
152 the physical elements in such water system, giving in de-
153 tail quantities, sizes, lengths, and specifying the streets,
154 roads or ways where situated; sixth, an itemized list of all
155 tools, apparatus, appliances and supplies used or usable in
156 supplying water on said July first. Such orders may be
157 enforced from time to time by any justice of said supreme
158 judicial court, in term time, or in vacation, upon motion
159 of either party, as such justice may deem reasonable and
160 proper in the premises. At such hearing the justice then
161 sitting may, upon motion of the petitioner, make all such
162 decrees as he deems reasonable and proper to enable the
163 petitioner, through its servants and employees, to ascer-
164 tain the true condition of the mains and pipes of the said
165 water company or companies, externally and internally, in
166 the presence of the officers or agents of said water com-
167 pany or companies. The said appraisers shall have the
168 power of compelling attendance of witnesses and the pro-
169 duction of all books, accounts and papers pertinent to the
170 issue and necessary for a full understanding by them of
171 the matter in question, and may administer oaths; and any

172 witness or person in charge of such books, accounts and
173 papers refusing to attend or to produce the same shall be
174 subject to the same penalties and proceedings, so far as
175 applicable, as witnesses summoned to attend the supreme
176 judicial court. Depositions may be taken as in civil ac-
177 tions. The appraisers so appointed shall, after due notice
178 and hearing, fix the valuation of said plant or plants, prop-
179 erty and franchises at what they are fairly and equitably
180 worth, so that said water company or companies shall re-
181 ceive just compensation for all the same. The first day
182 of July of the year of the filing of said petition, shall be
183 the date as of which the valuation aforesaid shall be fixed,
184 from which date interest on said award shall run, and all
185 rents and profits accruing thereafter shall belong to said
186 water district. The report of said appraisers or a major-
187 ity of them shall be filed in said clerk's office in term time
188 or in vacation, within six months after their appointment,
189 but a further time, not exceeding four months, shall be
190 granted for good cause, upon motion of either party, by
191 any justice of the supreme judicial court within which
192 said appraisers shall file their report, and such single jus-
193 tice, or in case of his inability to act, then any justice des-
194 igned for the purpose by the chief justice may, after
195 notice and hearing, confirm or reject the same, or recom-
196 mit it or submit the subject matter thereof to a new board
197 of appraisers, if justice shall require, and in case of such
198 rejection, recommitment or resubmission such justice may

199 fix the times for new hearings and new report thereon.
200 The award of the appraisers shall be conclusive as to val-
201 uation. Upon the confirmation of said report, the court so
202 sitting, shall thereupon, after hearing, make final decree
203 upon the entire matter, including the application of the
204 purchase money, discharge or incumbrances and transfer
205 of property and franchises, jurisdiction over which is here-
206 by conferred with the same power to enforce a decree as
207 in equity cases. Upon request of either party the justice
208 so making such final decree shall make separate findings
209 of law and fact. All such findings of fact shall be final,
210 but either party aggrieved may take exceptions to any rul-
211 ings of law so made, the same to be accompanied only by
212 such parts of the case as are necessary to a clear under-
213 standing of the questions raised thereby. Such excep-
214 tions shall be claimed on the docket within ten days after
215 such final decree is signed, entered and filed, and notice
216 thereof shall be given by the clerk to the parties or their
217 counsel, and said exceptions so claimed shall be made up,
218 allowed and filed within said time unless further time is
219 granted by court or by agreement of the parties. They
220 shall be entered at the next term of the law court held af-
221 ter the filing of such exceptions and there heard unless
222 otherwise agreed, or the law court shall for good cause
223 order a further time for hearing thereon. Upon such
224 hearing the law court may confirm, reverse or modify the
225 decree of the court below or remand the cause for further
226 proceedings as it seems proper. During the pendency of

227 such exceptions the cause shall remain on the docket of
228 the court below, marked "law," and decree shall be en-
229 tered thereon by a single justice, in term time or in vaca-
230 tion, in accordance with the certificate and opinion of the
231 law court. On payment or tender by said district of the
232 amount so fixed and the performance of all other terms
233 and conditions so imposed by said court, said entire plant,
234 property and franchises shall become vested in said water
235 district and be free from all liens, mortgages and incum-
236 brances theretofore created by the said Madison Water
237 Company or any other company or companies organized
238 or doing business in said district for said purpose, and
239 either party shall be entitled to appropriate process to com-
240 pel the other to perform the terms and conditions of said
241 decree. All the costs and expenses arising under said pe-
242 tition and appraisal shall be borne and paid by said water
243 district and water company or companies equally. Any
244 vacancy occurring in said board of appraisers shall be
245 filled, in term time or in vacation, by any justice of the su-
246 preme judicial court on petition therefor, after notice and
247 hearing.

Sect. 10. All valid contracts existing on the first day of
249 July of the year of the filing of the petition named in sec-
250 tion two of this act between the Madison Water Company
251 and any person or corporations for supplying water with-
252 in said district shall be assumed and carried out by the
253 Madison Water District.

‘Sect. 15. This act shall take effect when approved by a
255 majority of the legal voters of that portion of said water
256 district comprised by the Madison Village Corporation
257 and by a majority vote of the legal voters of that portion
258 of said water district comprised by that part of the town
259 of Anson hereinbefore designated, at special meetings re-
260 spectively in said part of said Anson and in Madison Vil-
261 lage Corporation, to be held on or before the first Monday
262 of July in the year one thousand nine hundred and sixteen.
263 Said special meetings shall be called respectively by the
264 assessors for the time being of Madison Village Corpora-
265 tion and the selectmen for the time being of the town of
266 Anson, and shall be called, warned and conducted accord-
267 ing to law regulating municipal elections, but the selectmen
268 of the town of Anson shall prepare a list of the legal vot-
269 ers residing within the limits of that part of Anson in-
270 cluded within said water district as hereinbefore described.
271 The clerk of the Madison Village Corporation and the se-
272 lectmen of town of Anson shall reduce the subject mat-
273 ter of this act to the following question: “Shall the act to
274 incorporate the Madison Water District be accepted?” and
275 the voters shall indicate by the written words “Yes” or
276 “No” their opinion of the same. The result of the ballot-
277 ing in each case shall be respectively declared by the as-
278 sessors of said Madison Village Corporation and the se-
279 lectmen of the town of Anson and recorded, and certifi-
280 cates thereof shall be filed by the clerk of said Madison

281 Village Corporation and the selectmen of the town of An-
282 son with the secretary of state. All other meetings of said
283 water district and parts thereof shall be called, notified
284 and conducted in the manner hereinbefore provided, or
285 said district and the parts thereof may by vote or by-laws
286 prescribe the manner of calling their respective future
287 meetings. A full and complete record shall be made and
288 preserved of all meetings of said water district and the
289 parts thereof.

‘Sect. 16. Should the legal voters of the Anson section of
291 said water district at said special election to be held on or
292 before the first Monday of July, one thousand nine hun-
293 dred and sixteen, refuse to accept or approve the act in-
294 corporating said water district, then that portion of said
295 town of Anson hereinbefore described together with the
296 inhabitants thereof shall not become a part of said water
297 district; unless a majority of the legal voters of said An-
298 son section shall at some subsequent special meeting, to be
299 called and held in the manner hereinbefore provided on or
300 before the first day of January in the year one thousand
301 nine hundred and seventeen vote to accept or approve the
302 act incorporating said water district and to become a part
303 of it. Then in such case said Anson section shall become
304 a part of said water district provided mutual arrange-
305 ments can be made to that effect with said Madison sec-
306 tion, and if this is done, said Anson section shall become
307 a part of said water district to all intents and purposes as

308 provided by this act and entitled to all its rights and privi-
309 leges, and subject to all its duties and obligations as if it
310 had at the first special election voted to become a part of
311 said water district; but if the Madison Village Corporation
312 section of said water district shall accept or approve said
313 act to incorporate said water district by a majority vote of
314 the legal voters thereof at said special election to be held
315 on or before the first Monday of July in the year one thou-
316 sand nine hundred sixteen, then the territory within said
317 Madison Village Corporation and the people thereof shall
318 constitute the water district hereby created and as herein-
319 before provided.'