

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

House Document

No. 668

H. P. 1643 House of Representatives, March 15, 1929.

Reported by Mr. Chase from Committee on Public Utilities
and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE**

AN ACT to Incorporate Madawaska Water Company.

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

Section 1. John J. Moore, Joseph W. Hammond, F. W.
2 Pelletier, John J. Cyr, Frank D. Fournier, Joseph X. Cyr,
3 Isaie L. Cyr, Henry J. Hart and Raymond Albert, their
4 associates, successors and assigns, are hereby made a cor-
5 poration by the name of Madawaska Water Company, for
6 the purpose of supplying the town of Madawaska in the
7 county of Aroostook, and the inhabitants of and property
8 owners in said town with pure water for domestic, sani-
9 tary, manufacturing, municipal and public purposes, includ-
10 ing the extinguishment of fires. Such corporation shall

11 possess all the powers and privileges generally possessed
12 by corporations by law, except as herein otherwise specifi-
13 cally provided.

Sect. 2. Said company, for said purposes, may retain,
2 collect, take, store, use and distribute water from any
3 springs, except such springs as are in actual use for domes-
4 tic purposes, ponds, streams, rivers, or other water sources,
5 within said town of Madawaska, or from the St. John
6 river, or from Long Lake in the town of St. Agatha, county
7 of Aroostook, and may locate, construct and maintain
8 cribs, reservoirs, aqueducts, dams, standpipes, gates, hy-
9 drants, pipes, pumps, pumping machinery and stations,
10 filtering and chlorinating plants and any and all other struc-
11 tures necessary therefor.

Sect. 3. Said company is hereby authorized to lay, con-
2 struct and maintain in, under, through, along, over and
3 across the highways, ways, streets, streams, rivers, rail-
4 roads and bridges in said town and to take up, replace,
5 maintain, and repair all such sluices, aqueducts, pipes, hy-
6 drants, and other structures as may be necessary or con-
7 venient for any of the purposes of its incorporation, so as
8 not unreasonably to obstruct the same, and under such
9 reasonable restrictions as the selectmen of said town may
10 impose. Whenever said company shall lay down or con-
11 struct any pipes or fixtures in any highway, way or street
12 or shall make any alteration or repair upon its works, in
13 any highway, way or street, it shall cause the same to be

14 done with as little obstruction to public travel as may be
15 practicable, and shall, at its own expense, without unneces-
16 sary delay, cause the earth and pavement there removed
17 by it, to be replaced in proper condition.

Sect. 4. Said company is hereby authorized to cross any
2 water course, private or public sewer, or to change the
3 direction thereof, whenever necessary or convenient for
4 the purposes of its incorporation, but in such manner as
5 not to obstruct or impair the use thereof, and it shall be
6 liable for any injury caused thereby.

Sect. 5. Said company is hereby authorized to take and
2 hold by purchase or otherwise any waters as limited in
3 section two hereof, and also any land necessary for flowage
4 or for its cribs, reservoirs, aqueducts, dams, standpipes,
5 gates, hydrants, pipes, pumps, pumping machinery and
6 stations, filtering and chlorinating plants and any and all
7 other structures necessary for its purposes, and to locate,
8 erect, lay and maintain the same in, under, through, along,
9 upon, over and across such land or lands, and to excavate
10 in, through, and under such land or lands for such location,
11 erection, construction and maintenance. Said company is
12 further authorized to enter upon such land or lands to make
13 surveys and locations, and shall file in the registry of deeds
14 in the county of Aroostook plans of such locations and
15 land or lands, showing the property taken, and within
16 thirty days thereafter shall publish notices of such filing

17 in some newspaper in said county, such publication to be
18 continued for three successive weeks.

Sect. 6. Should said company and the owner of such
2 lands so taken be unable to agree upon the damages to be
3 paid for such location, taking, holding and construction,
4 either party on petition to the county commissioners of
5 Aroostook county, may have the damages assessed by them
6 in accordance with the laws applicable to the assessment
7 of damages for land taken by railroads, so far as such law
8 is consistent with the provisions of this act. If said com-
9 pany shall fail to pay such land owner or deposit for his
10 use with the clerk of the county commissioners aforesaid,
11 such sum as may be finally awarded as damages, with costs
12 when recovered by him, within ninety days after notice
13 of final judgment shall have been received by the clerk of
14 courts of said county, the said location which is subject
15 to such award shall be invalid, and said company shall for-
16 feit all rights under the same as against said land owner.
17 Said company may make a tender to any land owner dam-
18 aged under the provisions of this act, and if such land owner
19 is awarded more damages than were tendered by said com-
20 pany, he shall recover costs, otherwise said company shall
21 recover costs. In case said company shall begin to occupy
22 such locations before the rendition of final judgment, the
23 land owner may require said company to file its bond with
24 said county commissioners, in such sum and with such
25 sureties as they approve, conditioned for said payment or

26 deposit. No action shall be brought against said company
27 for such taking, holding and occupation, until after peti-
28 tion is filed as aforesaid and there is a failure to pay or
29 deposit as aforesaid. Failure to petition for damages with-
30 in three years by the land owner shall be held to be a
31 waiver of the same.

Sect. 7. Any person suffering damage by the taking of
2 water by said company as provided by this act, may have
3 his damages assessed in the manner provided in the pre-
4 ceding section, and payment thereof shall be made in the
5 same manner and with the same effect. No action shall be
6 brought for the same until after petition is filed and the
7 time for payment has expired, as therein provided. A
8 tender by said company may be made with the same effect
9 as in the preceding section and the same period of limita-
10 tion shall apply.

Sect. 8. Said company is hereby authorized to make con-
2 tracts with the United States, the state of Maine, the county
3 of Aroostook, the town of Madawaska, any village cor-
4 poration therein, and with the inhabitants and property
5 owners thereof and therein, or any person, firm or corpo-
6 ration doing business therein or water district, for the
7 supply of water for any and all the purposes contemplated
8 by this act; and said company is hereby authorized to es-
9 tablish, maintain and collect rates of money for the supply-
10 ing of water for the purposes herein mentioned, such con-
11 tracts and such rates to be subject to the approval of the

12 public utilities commission of this state as provided by
13 statute. Said company and said town of Madawaska, by
14 its proper officers, are hereby authorized to enter into any
15 contract whereby in consideration of commencing construc-
16 tion for any and all purposes mentioned in this act, the
17 company is relieved from such public burdens by abatement
18 or otherwise as they may agree upon, and said contract
19 shall be legal and binding upon all parties thereto. Said
20 company and said town of Madawaska, or any village
21 corporation therein, by its or their proper officers are hereby
22 authorized to enter into any further contract or contracts,
23 whereby in consideration of a supply of water for any and
24 all purposes mentioned in this act, the company is relieved
25 from such public burdens by abatement or otherwise or is
26 paid money, or both, as they may agree upon, and said con-
27 tract or contracts shall be legal and binding upon all parties
28 thereto, subject, however, to the approval of the public
29 utilities commission of this state as provided by statute.

Sect. 9. Said company, for all its said purposes, may hold
2 real and personal property necessary and convenient there-
3 for.

Sect. 10. The capital stock of said company shall be one
2 hundred fifty thousand dollars which shall all be common
3 stock and shall be divided into shares having a par value
4 of fifty dollars each. The amount of capital stock may be,
5 from time to time, increased, subject to the approval of
6 the public utilities commission.

Sect. 11. Said company may, subject to the approval of
2 the public utilities commission, issue its bonds for the ac-
3 quiring of its property, real or personal, for the construc-
4 tion of its works, plant and equipment of any and all kinds,
5 and for any other purposes of its incorporation, upon such
6 rates, terms and time as it may deem expedient, and secure
7 the same by mortgage of its franchise and property.

Sect. 12. The town of Madawaska, or any village corpo-
2 ration within the limits of said town, at any time after the
3 opening therein for use and service of a system of water
4 works constructed by said company and after a vote in a
5 legal meeting to that effect has been passed, shall have the
6 right to purchase, and by this act said company is required
7 to sell to said town, or said village corporation, all its sys-
8 tem, property and franchise, for such price as may be
9 agreed upon by said town, or said village corporation, and
10 said company. And in case the parties are unable to agree
11 upon the price therefor, the same shall be determined by a
12 commission of three disinterested men, one of whom shall
13 be selected by said company, one by said town or village
14 corporation, and the two commissioners so selected shall
15 together select a third commissioner, who shall be an at-
16 torney duly admitted to practice in the courts of the state
17 of Maine or any justice of the supreme judicial court of
18 the state of Maine. The award of a majority of said com-
19 mission, not less than cost, shall be binding upon said
20 company and said town, or village corporation, and said

21 town or village corporation shall pay the amount of said
22 award for said system, property and franchise within ninety
23 days from the date such award shall be rendered. The
24 costs of said commission shall be borne equally by the said
25 company and said town, or village corporation.

Sect. 13. The first meeting of the company shall be called
2 by a written notice therefor, signed by any two of the
3 within named incorporators, served upon each of the with-
4 in named incorporators by giving him the same in hand,
5 or by leaving the same at his last and usual place of abode,
6 or by mailing the same to his last known address, postage
7 prepaid, or by publishing the same in some newspaper
8 published in the county of Aroostook, at least seven days
9 before the time of such meeting. If all incorporators herein
10 named are present at such meeting, either personally or
11 by written proxy, said meeting and all action taken thereat
12 shall be legal, notwithstanding no notice thereof has been
13 given.

Sect. 14. At the first meeting of the company, the incor-
2 porators shall elect a board of directors in such number
3 as they shall see fit, and a clerk and shall adopt a set of
4 by-laws which shall provide for the general conduct of the
5 business and affairs of the company, the number of officers
6 which the company shall have, the powers, duties and re-
7 sponsibilities of each, together with their compensation, if
8 any, in what manner they shall be elected, the tenure of
9 the respective offices of each, and the time of stockholders'

10 and directors' meetings and the manner of calling the same.
11 The by-laws shall among other things provide for the
12 changes and amendment thereof by the stockholders. Such
13 by-laws including such changes in or amendments thereto
14 as may be made shall govern and control the conduct and
15 affairs of the company, its officers, agents, servants and
16 employees.

Sect. 15. The town of Madawaska, or any village corpo-
2 ration within the limits of said town, shall have the right
3 to purchase, and by this act said company is required to
4 sell to said town or village corporation, this charter and
5 all rights thereunder, for the actual cost to said company
6 of obtaining said charter, being reasonable attorney's fees
7 and travelling expenses in connection therewith. Said right
8 to purchase said charter shall expire whenever said town
9 of Madawaska by vote in a legal meeting or by a writing
10 signed by its selectmen shall have expressed its consent to
11 the commencing of construction hereunder by the company.

Sect. 16. Nothing herein contained is intended to repeal
2 or shall be construed as repealing the whole or any part
3 of any existing statute. And all the rights and duties herein
4 mentioned shall be exercised and performed in accordance
5 with all applicable provisions of chapter fifty-five of the
6 revised statutes, and acts amendatory thereof and additional
7 thereto.