

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)

STATE LAW LIBRARY

NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 337

H. P. 229

House of Representatives, January 30, 1957.

Referred to Committee on Public Utilities. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Cole of Sumner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT to Incorporate the Canton Water District.

Emergency preamble. Whereas, the existing water system of the town of Canton is inadequate for the needs of the inhabitants of said town; and

Whereas, such inadequacy is injurious to the health, welfare and safety of the inhabitants of said town; and

Whereas, it is imperative that action be taken at the earliest possible moment to relieve such inadequacy; and

Whereas, the following legislation is immediately necessary to enable the inhabitants of the town of Canton to take steps to remedy such inadequacy; and

Whereas, acts of the Legislature do not become effective until 90 days after adjournment; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Territorial limits; name; purposes. The territory, and the inhabitants therein, of that part of the town of Canton which is bounded and described as follows: Beginning at a point on High Street four thousand and fifty (4,050) feet South of the intersection of High Street and Pleasant Street; thence Northwest five thousand three hundred fifty (5,350) feet, more or less, to a point on Main Street three thousand two hundred seventy-five (3,275) feet West of the

intersection of Main Street and Pleasant Street; thence Northeast four thousand fifty (4,050) feet, more or less, to a point on Pleasant Street two thousand seven hundred fifty (2,750) feet North of the intersection of Pleasant Street and High Street; thence East three thousand twenty-five (3,025) feet, more or less, to a point on Spring Street, four thousand twenty-five (4,025) feet Northeast of the intersection of Spring Street and Pleasant Street; thence Southwest seven thousand seven hundred thirty (7,730) feet, more or less, to the point of beginning, is hereby created a body politic and corporate under the name of "Canton Water District" for the purpose of supplying the inhabitants of said District and the town of Canton, and said municipality, with pure water for domestic, sanitary, commercial and municipal purposes.

Sec. 2. Source of supply. The said district, for the purposes of its incorporation, is hereby authorized to take, hold, divert, use and distribute water from any river, lake, pond, stream, brook, spring or other source of water, natural or artificial, within the town of Canton or to contract to do any or all of the foregoing things.

Sec. 3. Right of eminent domain. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public uses, real estate and personal estate, and any interest therein, necessary or convenient for such purposes, by purchase, lease or otherwise, and is hereby expressly authorized to exercise the right of eminent domain as hereinafter provided to acquire for such purposes any land or interest therein or water rights necessary for erecting and maintaining dams, plants and works, for flowage, for power, for pumping, for supplying water through its mains, for reservoirs, for preserving the purity of the water and watershed, for laying and maintaining mains, aqueducts and other structures for taking, distributing, discharging and disposing of water and for rights-of-way or roadways to its sources of supply, dams, power stations, reservoirs, mains, aqueducts, structures and lands.

The said district is hereby authorized to lay in and through the streets, roads, ways and highways of the town of Canton, and across private lands therein, and to maintain, repair and replace all such pipes, mains, conduits, aqueducts and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay or install any pipes, mains, conduits, aqueducts or fixtures in any street, road, way or highway, it shall cause the same to be done with as little obstruction as practicable to the public travel, and shall, at its own expense, without unnecessary delay, cause the earth and pavement removed by it to be so replaced as to leave the surface in proper condition.

The said district is hereby authorized, for the purpose of its incorporation, to erect and maintain all dams, reservoirs and structures necessary and convenient for its corporate purposes. Provided, however, nothing herein contained shall be construed as authorizing said district to take by right of eminent domain any of the property or facilities of any other public service corporation or district used or acquired for future use by the owner thereof in the performance of a public duty unless expressly authorized thereto herein or by subsequent act of the Legislature.

Sec. 4. Procedure in exercising right of eminent domain and assessment of damages; procedures on appeals. The said district in exercising, from time to

time, any right of eminent domain conferred upon it by law or through or under the franchise of any water company by it acquired shall file in the office of the county commissioners of Oxford County and cause to be recorded in the registry of deeds in said county plans of the location of all lands or interests therein or water rights to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason the district fails to acquire property which it is authorized to take and which is described in such location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect such location and file a new description thereof; and in such case the district is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the district shall not be liable for any acts which would have been justified if the original taking had been lawful. No entry shall be made on any private lands, except to make surveys, until the expiration of 10 days from such filing, whereupon possession may be had of all said lands or interests therein or water rights and other property and rights as aforesaid to be taken, but title thereto shall not vest in said district until payment therefor.

If any person sustaining damages by any taking as aforesaid shall not agree with said district upon the sum to be paid therefor, either party, upon petition to the county commissioners of Oxford county, may have such damages assessed by them. The procedure and all subsequent proceedings and right of appeal therefrom shall be had under the same restrictions, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 5. Procedure if public utility must be crossed. In case of any crossing of any public utility, unless consent is given by the company owning or operating such public utility as to place, manner and conditions of the crossing within 30 days after such consent is requested by said district, the Public Utilities Commission shall determine the place, manner and conditions of such crossing; and all work on the property of such public utility shall be done under the supervision and to the satisfaction of such public utility, but at the expense of the district.

Sec. 6. Trustees; how elected; meetings; officers. All of the affairs of said district shall be managed by a board of 3 trustees, residents therein, who shall be chosen as hereinafter provided.

As soon as may be after the acceptance of this act as hereinafter provided, the municipal officers of the town of Canton shall appoint 3 trustees of said district to hold office as follows: one to serve until the first annual meeting of said district following the acceptance of this act; one to serve until the second annual meeting of said district following such acceptance; and one to serve until the third annual meeting of said district following such acceptance. At each annual meeting of said district, beginning with the first annual meeting after the acceptance of this act, one trustee shall be elected by the district by ballot as hereinafter provided to serve until the annual meeting of said district occurring 3 years thereafter and until his successor is elected and qualified. Whenever any trustee ceases to be a resident of said district, he vacates the office of trustee. All trustees, if residents of said district, shall be

eligible for re-election. Vacancies in the office of trustee shall be filled for the unexpired term at a special meeting of the district, unless said vacancy shall occur within 3 months prior to the next annual meeting of said district, at which annual meeting such vacancy shall be filled.

As soon as convenient after their appointment, the first board of trustees shall hold a meeting at some convenient place in the district, to be called by any member thereof in writing, designating the time and place and delivered in hand to the other 2 members, not less than 2 full days before the meeting; provided, however, that they may meet by agreement without such notice. They shall then organize by electing from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer. They shall adopt a corporate seal and may adopt by-laws and perform any other acts within the powers delegated to them by law. Following each annual meeting of said district, the trustees shall elect from their own number a chairman and a clerk and, not necessarily from their own number, a treasurer to serve until the next annual meeting of said district and until their respective successors are elected and qualified.

The trustees from time to time may choose and employ and fix the compensation of any other necessary officers and agents, who shall serve at their pleasure. The treasurer shall furnish bond in such sum and with such sureties as the trustees shall approve, the cost thereof to be paid by the district. Members of the board of trustees shall be eligible to any office under the board. The trustees, as such, shall receive as compensation for their services an amount to be determined by them not to exceed \$100 each per year; but the treasurer may be allowed such compensation as the trustees shall determine.

The trustees shall be sworn to the faithful performance of their duties as such, which shall include the duties of any member who shall serve as clerk or clerk pro tem. They shall make and publish an annual report, including a report of the treasurer, and such report may be included in, and published as part of, the town report.

Sec. 7. District and town authorized to make contracts. The said district, through its trustees, is authorized to contract with persons and corporations including the town of Canton, which town is authorized to contract with it for the supply of water for municipal purposes, and for said purposes said town may raise money as for other municipal purposes.

Sec. 8. Authorized to acquire property, franchises of Canton Water Company. The said district, through its trustees, is hereby authorized to acquire by purchase the entire plant, properties, franchises, rights and privileges owned by Canton Water Company, including all lands, waters, water rights, dam structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances used or usable in supplying water in the town of Canton, and said company is hereby authorized to sell, transfer and convey its said plants, properties, franchises, rights and privileges to said district. Said district is also hereby authorized to acquire by purchase the stock of said Canton Water Company.

Sec. 9. Valid contracts of Canton Water Company to be assumed by District. All valid contracts now existing between the Canton Water Company and any person or corporation, including the Town of Canton, for supplying water in the town of Canton, and all liabilities of said Canton Water Company, shall be assumed and carried out by said Canton Water District.

Sec. 10. Authorized to borrow money, to issue bonds and notes. For accomplishing the purposes of this act, and for such other expenses as may be necessary for the carrying out of said purposes, said district, through its trustees, without district vote, is authorized to borrow money temporarily and to issue therefore its negotiable notes, and for the purpose of renewing and refunding the indebtedness so created, of paying any necessary expenses and liabilities incurred under the provisions of this act, including organizational and other necessary expenses and liabilities whether incurred by the district or the town of Canton, the district being authorized to reimburse said town of Canton for any such expenses incurred by it, and in acquiring properties, paying damages, laying pipes, mains, aqueducts and conduits, constructing, maintaining and operating a water plant or system and making renewals, additions, extensions and improvements to the same; and to cover interest payments during the period of construction, said district, through its trustees, without district vote, is also authorized to issue, from time to time, bonds, notes or other evidences of indebtedness of the district in one series, or in separate series, in such amount or amounts, bearing interest at such rate or rates, and having such terms and provisions as the trustees shall determine. Said bonds, notes and evidences of indebtedness may be issued to mature serially or made to run for such periods as the trustees may determine, but none of them shall run for a longer period than 25 years from the date of original issue thereof. Bonds, notes or evidences of indebtedness may be issued with or without provision for calling the same prior to maturity, and if callable may be made callable at par or at such premium as the trustees may determine. All bonds, notes or other evidences of indebtedness shall have inscribed upon their face the words "Canton Water District," shall be signed by the treasurer and countersigned by the chairman of the board of trustees of the district, and if coupon bonds are issued, the interest coupons attached thereto shall bear the facsimile signature of the treasurer. All such bonds, notes and evidences of indebtedness so issued by the district shall be legal obligations of the district, which is hereby declared to be a quasi-municipal corporation within the meaning of section 136 of chapter 53 of the Revised Statutes of 1954 and all provisions of said section shall be applicable thereto. The said district may refund and reissue, from time to time, in one or in separate series, its bonds, notes and other evidences of indebtedness, and each authorized issue shall constitute a separate loan. All bonds, notes and evidences of indebtedness issued by said district shall be legal investments for savings banks in the State of Maine and shall be tax exempt.

Sec. 11. Property tax exempt. The property, both real and personal, rights and franchises of said district shall be forever exempt from taxation.

Sec. 12. Water rates; application of revenue; sinking fund. All individuals, firms and corporations, whether private, public or municipal, shall pay to the treasurer of said district the rates established by said board of trustees for the water used by them. Said rates shall be uniform within the territory supplied

by the district and shall be subject to the approval of the Public Utilities Commission. Said rates shall be so established as to provide revenue for the following purposes:

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

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

III. To provide each year a sum equal to not less than 1% nor more than 5% of the entire indebtedness created by the district, which sum shall be turned into a sinking fund and there kept to provide for the extinguishment of said indebtedness. 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 or fiduciaries or trustees in this state are now or hereafter allowed to hold. Provided, however, that the trustees may, in their discretion and in lieu of the establishment of a sinking fund, issue the bonds of the district so that not less than 1% of the amount of the bonds so issued shall mature and be retired each year;

IV. If any surplus remains at the end of the year, it may be turned into the sinking fund.

Sec. 13. Existing statutes not affected; rights conferred subject provisions of law. Nothing herein contained is intended to repeal or shall be construed as repealing the whole or any part of any existing statute, and all the rights and duties herein mentioned shall be exercised and performed in accordance with all the applicable provisions of chapter 44 of the Revised Statutes of 1954, and all acts amendatory thereof or additional thereto.

Sec. 14. Annual and special meetings of district; qualifications of voters. The annual meeting of the district for the election of trustees shall be held in the district in each year on the same day as the annual meeting of the town of Canton, at such hour and place as may be designated by vote of the board of trustees. Notices thereof, signed by the chairman or clerk of the board of trustees, shall be conspicuously posted in 2 public places within the district, not less than 7 days before the meeting. Special meetings may be called by the board of trustees in like manner at any time, provided that the notice of special meetings shall state the business to be transacted thereat. If for any reason an annual meeting is not held, a special meeting in lieu thereof may be called and held in like manner within 3 months from said date. Ten per cent of the persons qualified to vote in such meetings shall constitute a quorum.

All persons resident in said district and qualified to vote for Governor under the laws of this State shall be entitled to vote in any meeting of the district, including the meeting for acceptance of this charter.

Sec. 15. Trustees granted certain powers of selectmen. After the meeting for acceptance of this charter, the trustees shall have the same powers and perform the same duties as otherwise are exercised and performed by the selectmen of towns in correcting and preparing lists of the persons qualified to vote in said district, and for that purpose they shall be in session at the office

of the said district for one hour next before the opening of any meeting; and notice thereof shall be given in the call for the meeting. All meetings of the district shall be presided over by a moderator chosen in the same manner and with the same authority as moderators of town meetings.

Sec. 16. Incidental powers and rights. All incidental powers, rights and privileges necessary to the accomplishment of the main objects of this act, as hereinbefore set forth, are granted to said district.

Emergency clause; effective date; referendum; certificate to Secretary of State. In view of the emergency cited in the preamble, this act shall take effect when approved, only for the purpose of permitting its submission to the legal voters of the territory embraced within the limits of said district, present and voting by ballot at a special meeting or meetings to be called by the selectmen of the town of Canton and to be held for that purpose not later than the first day of September, 1957. Such meeting or meetings shall be called, advertised and conducted according to the law relating to municipal elections; provided, however, that the selectmen of said town shall not be required to prepare for posting, nor the town clerk to post, a new list of said voters, and for the purpose of registration of voters said selectmen shall be in session for one hour preceding such special meeting. The town clerk of said town shall reduce the subject matter of this act to the following question: "Shall the act to incorporate the Canton Water District, as enacted by the 98th Legislature, be accepted?" and the voters shall indicate by a cross or check mark placed upon their ballots against the words "Yes" or "No" their opinion of the same.

The result of the vote in said district shall be declared by the municipal officers of the town of Canton and due certificate thereof filed by the town clerk with the Secretary of State, and if said result so filed shows that a majority of the vote is for approval of this act, it shall take complete effect; provided that the total number of votes cast for and against the acceptance of this act equals or exceeds 20% of the total vote for all candidates for Governor cast in said district at the next previous gubernatorial election.