

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SEVENTY-THIRD LEGISLATURE
OF THE
STATE OF MAINE
1907.

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PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1907.

Chapter 424.

An Act to incorporate the Kittery Water District within the limits of the town of Kittery for the purpose of supplying the inhabitants of said district, likewise the remaining portion of said town, with pure water for domestic and municipal purposes.

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

Section 1. The following described territory, and the people within the same, namely: so much of the town of Kittery in the county of York, beginning: At a point on Chauncey's creek directly south to the base of Tenney's hill, so called, and extending northerly to the tracks of the York Harbor and Beach Railroad; thence westerly by said railroad tracks to the west bank of Spruce creek; thence northerly by said Spruce creek to the post road; thence westerly by the post road to James' corner; thence northwesterly by the Spinney road to Spinney's creek; thence southerly and easterly by Spinney's creek, the Piscataqua river, Pepperell cove and Chauncey's creek to the point of beginning, shall constitute a body politic and corporate under the name of the Kittery Water District, for the purpose of supplying the inhabitants of said district, and likewise of the remaining portion of said town of Kittery, with pure water for domestic and municipal purposes.

Corporate limits.

—purpose.

Section 2. Said corporation is hereby authorized for the purposes aforesaid, to take water from any spring, pond or streams in said towns or adjoining towns, provided, that no water, except as hereinafter provided, be taken from springs or ponds now used for similar purposes without consent of the owner, to erect and maintain pumping stations, with all necessary appliances required thereto, to erect and maintain reservoirs and standpipes, and lay down and maintain pipes and aqueducts necessary for the proper accumulating, conducting, discharging, distributing and disbursing water, and forming proper reservoirs therefor, and said corporation may take and hold by purchase or otherwise any lands, or real estate necessary therefor, and may excavate through any lands when necessary for the purposes of this corporation.

May take water from sources in town of Kittery, etc.

—proviso.

—may maintain pumping stations, reservoirs, etc.

—may lay pipes, etc.

—may take land.

Section 3. Said water district shall be liable for all damages that shall be sustained by any person or corporation in their property by the taking of any land whatsoever, or water, or by flowage, or by excavating through any land for the purpose of laying pipes, building dams or constructing reservoirs. If any person sustaining damage as aforesaid and said corporation shall not mutually agree upon the sum to be paid therefor, such person may cause his damages to be ascertained in the same

Liability for damages.

—damages, how ascertained.

CHAP. 424

manner and under the same conditions, restrictions and limitations as are or may be prescribed in the case of damages by the laying out of highways.

May lay pipes in streets and highways.

Section 4. Said water district is hereby authorized to lay in and through the streets and highways thereof and of the remaining portion of said town of Kittery and adjoining towns, and to take up, repair and replace all such pipes, aqueducts and fixtures as may be necessary for the objects above set forth, and whenever said district shall lay any pipes or aqueducts in any street or highway, it shall cause the same to be done with as little obstruction as possible to the public travel, and shall at its own expense without unnecessary delay cause the pavement and earth removed by it to be replaced in proper condition.

—shall not unnecessarily delay travel.

Board of trustees.

Section 5. All the affairs of said water district shall be managed by a board of trustees composed of three members, to be chosen by ballot by the legal voters within said water district, the first election to be at the meeting of the legal voters of the said corporation to be called to accept this act, one to serve until the annual meeting to be held in nineteen hundred and eight, one to serve until the annual meeting to be held in nineteen hundred and nine, and one to serve until the annual meeting in nineteen hundred and ten. Whenever the term of a office of a trustee shall expire the legal voters of the said water district shall elect a successor to serve for a full term of three years, and if any other vacancy occur it may be filled in like manner for the unexpired term. The annual election of officers shall be in the month of March. As soon as convenient after the board of trustees has been chosen, the said trustees shall hold a meeting at the office of the selectmen in the town of Kittery, and organize by the election of a chairman and clerk, adopt a corporate seal, and when necessary, may choose a treasurer and all other needful officers and agents for the proper management of the affairs of said water district. Said trustees may procure an office and incur such expenses as may be necessary. Each member shall receive in full compensation for his services an allowance of fifty dollars per year, or such other less sum as the said water district at any legal meeting may prescribe.

—how chosen.

—tenure.

—vacancies, how filled.
—annual election of officers.
—organization of trustees.

—compensation of trustees.

—may adopt by-laws.

The said water district, at any legal meeting thereof, called for the purpose, may adopt such by-laws and provisions, not inconsistent with the laws and constitution of this state and the United States, as they may deem expedient and necessary for the better government and regulation of the municipal affairs within said water district, in which case, such by-laws and provisions so adopted, shall extend to said water district as fully,

to all intents and purposes, as the other provisions of this act, subject only to alterations or additions by a two-thirds vote, at a legal meeting of the water district called for the purpose.

Section 6. Said water district is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent domain, which right is hereby expressly delegated to said water district for said purpose, the entire plant, property and franchises, rights and privileges now held by the Agamenticus Water Company within said district and the remaining portion of said towns of Kittery and York, including all lands, waters, water rights, dams, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by said company and used or usable in supplying water in said water district and town of Kittery and any other real estate in said water district.

May acquire franchises, etc., of Agamenticus Water Co.

Section 7. In case said trustees fail to agree with said Agamenticus Water Company upon the terms of purchase of the above mentioned property on or before June first, nineteen hundred and seven, said water district through its trustees is hereby authorized to take said plant, property and franchises as for public uses by petition therefor in the manner hereinafter provided. And said water district through its trustees is hereby authorized on or before June first, nineteen hundred and seven, to file a petition in the clerk's office of the supreme judicial court for the county of York, in term time or in vacation, addressed to any justice of said court, who after notice to said Agamenticus Water Company and its mortgagees, shall after hearing and within thirty days after the filing of said petition appoint three disinterested appraisers, one of whom shall be learned in the law, for the purpose of fixing the valuation of said plant, property and franchises. The said appraisers shall have the power of compelling attendance of witnesses and the production of books and papers pertinent to the issue, and may administer oaths; and any witness, or person in charge of such books or papers, refusing to attend, or to produce the same, shall be subject to the same penalties and proceedings as far as applicable as witnesses summoned to attend the supreme judicial court. The appraisers so appointed shall after due notice and hearing fix the valuation of said plant, property and franchises at what they fairly and equitably are worth, so that the said Agamenticus Water Company shall receive just compensation for all the same.

Proceedings in case parties fail to agree upon terms of purchase.

—petition.

—appraisers.

—powers of appraisers.

—duties of appraisers.

The first day of July, nineteen hundred and seven, shall be the date as of which the valuation aforesaid shall be fixed, from which day, interest on said award shall run, and all net rents

—dates when valuation shall be fixed.

CHAP. 424

—further
proceed-
ings.

and profits accruing thereafter shall belong to said water district. The report of said appraisers or of a majority of them, shall be filed in said clerk's office, in term time or vacation within five months after their appointment and such single justice or in case of his inability to act then, any justice designated for the purpose by the chief justice, may after notice and hearing, confirm or reject the same, or recommit it if justice so requires. The award of the appraisers shall be conclusive as to valuations. Upon the confirmation of said report the court so sitting shall thereupon, after hearing, make final decree upon the entire matter, including the application of the purchase money, discharge of incumbrances and transfer of the property, jurisdiction over which is hereby conferred, with the same power to enforce said decree as in equity cases. Upon request of either party the justice so making such final decree shall make separate findings of law and fact. All such findings of fact shall be final, but either party aggrieved may take exceptions to any rulings of law so made, the same to be accompanied only by such parts of the case as are necessary to a clear understanding of the questions raised thereby. Such exceptions shall be claimed on the docket within ten days after such final decree is signed, entered and filed, and notice thereof has been given by the clerk to the parties or their counsel, and said exceptions so claimed shall be made up, allowed and filed within said time unless further time is granted by the court or by agreement of parties. They shall be entered at the next term of the law court to be held after the filing of said decree, and there heard, unless otherwise agreed, or the law court shall for good cause order a further time for hearing thereon. Upon such hearing the law court may confirm, reverse or modify the decree of the court below, or remand the cause for further proceedings as it seems proper. During the pendency of such exceptions the cause shall remain on the docket of the court below marked 'law' and decree shall be entered thereon by a single justice in term time or in vacation, in accordance with the certificate and opinion of the law court. Before said plant, property and franchises are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of York, by a single justice thereof as hereinbefore provided, shall, upon motion of either party, after notice and hearing, take account of all receipts and expenditures properly had or incurred by the Agamenticus Water Company belonging to the period from and after July first, nineteen hundred and seven, and all the net rents and profits accruing thereafter, and shall order the net balance due to either party to be added or deducted from

the amount to be paid under said final decree, as the case may be. All findings of law or fact by such single justice at such hearing shall be final. On payment or tender by said water district of the amount so fixed and the performance of all other terms and conditions so imposed by the court, said entire plant, property and franchises shall become vested in said water district and be free from all liens, mortgages, and incumbrances theretofore created by the Agamenticus Water Company. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said Agamenticus Water Company may thereafterwards on its part cause said valuation to be made as herein provided, and shall be entitled to appropriate process to compel said water district to perform the terms of the final decree, and to pay for said plant, property and franchises in accordance therewith.

Section 8. All contracts now existing between the Agamenticus Water Company and any persons or corporations or the United States government for supplying water within said water district and the remaining portion of said town of Kittery and adjoining towns, shall be assumed and carried out by said Kittery Water District.

Existing contracts shall be assumed by Kittery Water District.

Section 9. For accomplishing the purposes of this act said water district through its trustees, is authorized to issue its bonds to an amount sufficient to procure funds to pay the expenses incurred in the acquisition of the property of said Agamenticus Water Company, and the purchase thereof, and to secure a new source of supply, or the improvement of the present supply, and to make such extensions of the present system as the interests of the said water district shall demand. Said bonds shall be a legal obligation of said water district, which is hereby declared to be a quasi municipal corporation within the meaning of section ninety-six, chapter forty-seven of the revised statutes, and all the provisions of said section shall be applicable thereto. The said bonds shall be a legal investment for savings banks.

May issue bonds.

Section 10. All individuals, firms and corporations, whether private, public, national or municipal, shall pay to the treasurer of said water district the rates established by said board of trustees for the water used by them, and said rates shall be uniform within the territory supplied by the water district. Said rates shall be so established as to provide revenue for the following purposes:

Water rates.

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

Purposes for which revenue is provided.

CHAP. 424

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.

Incidental powers, etc., granted.

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

When this act shall take effect.

Section 12. This act shall take effect when accepted by a majority vote of the legal voters within said water district, voting at a meeting to be specially called and held for the purpose on or before the first day of May, nineteen hundred and seven, and the selectmen of the town of Kittery are hereby authorized to call said meeting, and to make and provide a separate check list for such of the voters within said water district as are then legal voters of said town, and all warrants issued to said town shall be varied accordingly to show that only such voters therein are entitled to vote thereon. Such special meeting shall be called, advertised, and conducted according to the law relating to municipal election, provided, however, that the board of selectmen shall not be required to prepare or the town clerk to post a new list of voters, and for this purpose said board shall be in session the three secular days next preceding such election, the first two days thereof to be devoted to registration of voters and the last day to enable the board to verify the corrections of said lists and to complete and close up its records of said sessions. The town clerk shall reduce the subject matter of this act to the following question: 'Shall the act to incorporate the Kittery Water District be accepted?' and the voters shall indicate by a cross placed against the words 'Yes' and 'No' their opinion of the same. The result shall be declared by the selectmen of Kittery, and due certificate thereof filed by the town clerk with the secretary of state. This act shall take effect when approved by the governor, so far as necessary to empower the calling and holding of such meeting.

—form of question to be submitted.

When certain sections of this act shall be void.

Section 13. Sections two, three and four of this act shall be inoperative, null and void, unless the said water district shall first acquire by purchase, or by the exercise of the right of eminent domain as this act provides, the plant, property and franchises, rights, and privileges now held by the Agamenticus

Water Company within said district and the remaining portion of the towns of Kittery and York.

Section 14. All costs and expenses arising under the provisions of this act shall be paid and borne as directed by the court in the final decree provided by section seven.

Costs and expenses, how borne and paid.

Section 15. This act shall take effect when approved.

Approved March 26, 1907.

Chapter 425.

An Act to provide for a Clerk for the Register of Deeds for the Northern Registry of Deeds for Aroostook County.

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

The register of deeds for the northern registry of deeds of Aroostook county is hereby authorized to employ a clerk to assist said register of deeds in the performance of the duties of the office, and the sum of three hundred dollars is hereby appropriated for the compensation of said clerk.

Clerk authorized.

Approved March 27, 1907.

Chapter 426.

An Act to incorporate the Wilton Water District.

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

Section 1. The following territory and the people within the same, namely, the town of Wilton, except lot number sixteen, according to a plan of said town, shall constitute a public municipal corporation under the name of the Wilton Water District for the purposes of supplying the inhabitants of said district and of the villages of North Jay and Bean's Corner in the town of Jay, and said municipalities with pure water for domestic, sanitary and municipal purposes.

Corporate limits.

—corporate name.

—purposes.

Section 2. The said district for the purposes of its incorporation is hereby authorized to take, hold, divert, use and distribute water from Varnum pond, Wilson lake, or from any spring not in actual use for domestic purposes, or any pond, brook or other waters in the town of Wilton, or from Hill's pond in Perkins plantation.

May take water from Varnum pond, Wilson lake and other sources.

Section 3. The said district, for the purposes of its incorporation, is hereby authorized to take and hold, as for public

May take land and water rights.