

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-first Legislature

OF THE

STATE OF MAINE

1923

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Private and Special Laws

OF THE

STATE OF MAINE

As Passed by the Eighty-First
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appointed by governor or state aid forfeited. The Maine Institution for the Blind may change its by-laws to cover this change in the law and a majority in number of directors appointed by the governor shall be a condition precedent to the money aid extended by the state.

Sec. 4. Inconsistent statutes repealed. All acts or parts of acts and resolves inconsistent with this act are hereby repealed.

Approved April 4, 1923.

Chapter 97.

An Act to Supply the Town of Winthrop with Pure Water.

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

Sec. 1. Town, by a commission, authorized to maintain water supply. The town of Winthrop by a commission as hereinafter provided, acting for and in behalf of said town, is authorized to take, hold, divert, use and distribute water from Narrows pond, so-called, in said Winthrop, and from Lake Maranacook in the towns of Winthrop and Readfield, either or both, and from any surface or underground brooks, springs, wells or streams in said Winthrop for the purpose of supplying the inhabitants of Winthrop village and other portions of said town or any other municipality or water district with pure water for domestic, sanitary, commercial and municipal purposes.

Sec. 2. Right of eminent domain conferred. Said town is hereby authorized to take and hold, as for public uses, by purchase or otherwise, any land or interest therein or water rights necessary for erecting and maintaining dams, for flowage, for power for pumping its water supply through its mains, for reservoirs, for preserving the purity of the water and water shed, for laying and maintaining 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.

Sec. 3. Authorized to lay and maintain pipes, etc. Said town is hereby authorized to lay in and through the streets, roads, ways and highways of the said town of Winthrop and across private lands therein, and to maintain, repair, and replace all such pipes, aqueducts, conduits and fixtures as may be necessary and convenient for the purposes herein designated, and whenever said town shall lay any pipes, conduits or aqueducts in any street, roadway 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 unreasonable delay, cause the earth and pavement removed by it to be replaced in proper condition.

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Sec. 4. Authorized to erect and maintain dams, reservoirs, etc. Said town is hereby authorized to erect and maintain all dams, reservoirs and structures necessary and convenient for the purposes designated under this act.

Sec. 5. Procedure in exercising right of eminent domain. In exercising any right of eminent domain conferred upon it by law, from time to time, or any right of eminent domain through or under the franchises of the water companies by it acquired, said town shall file in the office of the county commissioners of the county where such lands or water rights are situated and record in the registry of deeds in said county, plans of the location of all lands or interest therein or water rights, to be taken, with an appropriate description and the names of the owners thereof, if known. When for any reason said town fails to acquire the property authorized to be taken, and which is described in such location, or the location recorded is defective or uncertain, it may, at any time, correct and perfect such location and file a new description thereof, and in such case the town 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 town 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 ten days shall have elapsed after the date of such filing, whereon possession may be had of all said lands or interests therein or water rights so taken, but title thereto shall not vest in said town until payment therefor.

Sec. 6. How damages assessed in cases of disagreement. If any person sustaining damages by any taking as aforesaid, shall not agree with said town upon the sum to be paid therefor, either party, upon petition to the county commissioners of the county where said lands or water rights are situated, may have said damages assessed by them; the residence of any of said commissioners in said town shall not disqualify him from serving on such board of county commissioners to assess said damages; the procedure and all subsequent proceedings and right of appeal thereon shall be under the same restriction, conditions and limitations as are or may be by law prescribed in the case of damages by the laying out of highways.

Sec. 7. Manner and conditions of crossing railroads, how determined. In case of any crossing of a railroad, unless consent is given by the company owning or operating such railroad as to place, manner and conditions of the crossing, within thirty days after such consent is requested by said town, the public utilities commission shall determine the place, manner and condition of such crossing; and all work within the limits of such

railroad location shall be done under the supervision and to the reasonable satisfaction of such railroad company, but at the expense of the said town.

Sec. 8. Management of affairs by board of water commissioners, appointed by municipal officers; organization of board; terms of office and compensation; report. All the affairs of said town relating to the management and conduct of the business incident to the main object of this act shall be managed by a board of three commissioners, all of whom shall be residents of Winthrop and shall be styled "Water Commissioners of Winthrop." They shall be appointed by the municipal officers of the town of Winthrop. As soon as convenient after the members of said water commission have been chosen as aforesaid, said water commissioners shall hold a meeting and organize by the election of a president and clerk, adopt a seal and may appoint all needful agents for the proper conduct and management of the affairs imposed upon said board of water commissioners. At said first meeting, they shall determine by lot the term of office of each commissioner so that one shall serve for one year, one for two years and one for three years, and whenever the term of office of a trustee expires his successor shall be appointed by the municipal officers of said town of Winthrop to serve for the full term of three years, and in case any other vacancy arises it shall be filled in like manner for the unexpired term. All such commissioners shall be eligible to reappointment, but no selectman of said town of Winthrop shall be at any time eligible to such office; said commissioners may also ordain and establish such by-laws and rules as are necessary for their own convenience and the proper management of the affairs under their charge. The term of office of said commissioners first appointed shall be considered to date from the first Monday of April in the year nineteen hundred and twenty-three; said water commissioners 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 one hundred dollars per annum, or such other less sum as the said town at any legal town meeting, acting under an article in the warrant therefor relating to such compensation, may prescribe. At the close of each fiscal year said water commissioners shall make a detailed report of their doings, of the receipts and expenditures coming under their control and of such other matters pertaining to their duties as shall show said town how said commissioners are fulfilling the obligations of their trust, such reports to be made and filed with the municipal officers of Winthrop.

Sec. 9. Town authorized to acquire by purchase or by right of eminent domain certain private plants; town authorized to construct and maintain sewerage system. Said town of Winthrop is hereby authorized and empowered to acquire by purchase or by the exercise of the right of eminent

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domain, which right is hereby expressly delegated to said town for said purpose, the entire plants, properties, franchises, rights and privileges of the Hillside Water Company, of the Winthrop Water Company and of the Towle Packing Company, except their cash assets, and also the entire plant, franchises, rights and privileges of L. T. Carleton so far as the same pertain to his water system and plant in said Winthrop, including all lands, waters, water rights, dams, structures, reservoirs, pipes, machinery, fixtures, hydrants, tools and all apparatus and appliances owned by said water companies and by said Carleton and used or usable in supplying water in the town of Winthrop, together with all real estate so used or usable. Said water companies are hereby authorized to sell and transfer their respective franchises and properties to said town. Said town is authorized to construct, install, operate and maintain, in connection with its said water system, a sewerage system and plant with all the appurtenances thereto throughout the entire village of said town and the discharge from the pipes and conduits thereof may be into the waters below the mill stream, so-called, provided, however, that it shall not construct any system of drainage, or sewerage, without first having submitted its plans to the public utilities commission and obtained their approval therefor in writing, under the power invested in said commission by chapter ninety-eight of the public laws of nineteen hundred and seventeen.

Sec. 10. Procedure in case town and owners of existing private plants fail to agree on terms of purchase. In case said water commissioners of Winthrop fail to agree with the aforesaid companies, to wit, the said Hillside Water Company, Winthrop Water Company and the Towle Packing Company, and with said Carleton, any or all of them, upon terms of purchase, on or before June fifteenth, nineteen hundred and twenty-four, then said town, through said water commissioners, is hereby authorized to take the plants, properties and franchises of the aforesaid companies and of the said Carleton as authorized in section nine as for public uses, by petition therefor in the manner provided hereinafter wherein such companies and the said Carleton shall be parties defendant, and, for the purposes of designation hereinafter, are referred to as and by the term "parties defendant." And said town, through its water commissioners, is authorized on or before November fifteenth, nineteen hundred and twenty-four, to file a petition in the clerk's office of the supreme judicial court for the county of Kennebec, in term time or in vacation, addressed to any justice thereof, who, after notice to said parties defendant and their mortgagees, if any there may be, shall, after hearing and within thirty days after the filing of said petition appoint three disinterested appraisers, none of whom shall be residents of the county of Kennebec, one at least of whom shall be learned in the law, for the purpose of fixing the valuation of the plants,

franchises, and properties of said parties defendant, as described in section nine. Said petition shall not be dismissed after filing but may be and shall be amended in any manner to enable the court to make all necessary decrees thereon. At the hearing aforesaid, such justice, upon motion of the petitioner, may order the production and filing in court, for the inspection of the petitioner, of all books and papers pertinent to the issue to be heard by said appraisers, the terms and conditions of so producing and filing such books and papers to be determined by said justice in his order therefor and to be enforced from time to time as any justice of said supreme judicial court, in term time or in vacation, upon motion of any party to said cause, may deem reasonable and proper in the premises. At such hearing, such justice, upon motion of the petitioner, may fix a time at which the said parties defendant shall file in the clerk's office of the supreme judicial court for the county of Kennebec, for the inspection of the petitioner, the following: First, schedules showing the names, residence and water service of each customer on September fifteenth, nineteen hundred and twenty-three, with the rate charged therefor; second, copies of all contracts in force on said September fifteenth; third, an itemized statement of the gross income earned during its last fiscal year and all operating expenses and fixed charges paid or incurred during such year and properly chargeable thereto; fourth, a memorandum of all real estate, or interest therein, owned or controlled on said September fifteenth, with such brief description thereof, as will reasonably identify the same; fifth, a memorandum of all water rights used or owned on said September fifteenth with a brief description thereof and a concise statement of the method of acquiring the same; sixth, a description of all buildings and structures owned in whole or in part on said September fifteenth which are a part of the plants of the parties defendant; seventh, descriptions of all reservoirs owned on said September fifteenth; eighth, a description of all pipes, service pipes, hydrants, gates, gate boxes, shut-off boxes, fixtures, and machinery, and all the physical elements in such water system, giving in detail all quantities, sizes and lengths and specifying the streets, roads or ways where situated; ninth, an itemized list of tools, appliances and apparatus used or usable in supplying water on said September fifteenth. Such orders may be enforced from time to time by any justice of said supreme judicial court in term time or in vacation, upon motion of either party, as such justice may deem reasonable and proper in the premises. At such hearing the justice then sitting, may upon motion of the petitioner, make all such decrees as he deems reasonable and proper to enable the petitioner, through its servants and employees, to ascertain the condition of the mains and pipes of the said defendants named in section nine, externally and internally, all work connected therewith to be in the presence of the agents of the parties defendant, but wholly at the expense

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of said town of Winthrop, said decree to fix the number of such examinations and to impose such conditions as may to the court seem just and proper in the premises. 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, so far as applicable, as witnesses summoned to attend the supreme judicial court. Depositions may be taken as in civil actions. The said appraisers may appoint a sufficient number of stenographers to enable a full report of the proceedings of each day to be in readiness for use the following day, each of said appraisers to so have one copy thereof, and the parties to receive such number of copies as the appraisers may deem necessary. The compensation and expenses of said stenographers shall be taxed and allowed by the appraisers and be paid and borne as hereinafter provided. Their reports, certified by said appraisers as correct, shall be filed with the award to be made by said appraisers and shall be legal evidence of all proceedings so reported. They shall make full report as required in trials had in the supreme judicial court. The appraisers so appointed shall, after due notice and hearing, fix the valuation of the plants, properties and franchises of said parties defendant at what they are fairly and equitably worth so that said parties defendant shall receive just compensation for the same. The fifteenth day of November, nineteen hundred and twenty-three, shall be the date as of which the valuation aforesaid shall be fixed, from which date interest on said award at the rate of six per centum per annum shall run and all net profits and rents accruing thereafter shall belong to said town of Winthrop. The report of said appraisers or of a majority of them shall be filed in said clerk's office within six months after their appointment, but, if at the expiration of said six months the hearing before said appraisers should then be in progress and unfinished, their report may be so filed within thirty days after the close of said hearing. After said report is filed, such single justice, so appointing said appraisers, 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, if justice so requires, and in case of such rejection or recommitment such justice may fix the times for new hearings and new report thereon. The award of the appraisers shall be conclusive as to valuations. Upon confirmation of their report, the court so sitting, in term time or in vacation, shall thereupon, after hearing, make final decree upon the whole matter, including the transfer of the properties and franchises, jurisdiction of which is hereby conferred with the same power to enforce said decree as in equity cases. All the cost and expenses arising under said petition and appraisal

shall be paid and borne as directed by the court in said final decree. The findings of such justice as to such costs and expenses and their apportionment shall be final. In all other matters the justice so making such final decree, shall upon request of any of the parties, make separate findings of law and fact. All such findings of fact shall be final, but any party aggrieved may take exceptions to any rulings of law so made, the same to be accompanied by only 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 the parties. They shall be entered at the next term of the law court to be held after the filing of such exceptions and there heard unless otherwise agreed, or the law court 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 the aforesaid plants, properties and franchises are transferred in accordance with such final decree, and before the payment therefor, the court sitting in said county of Kennebec, by a single justice thereof, as hereinbefore provided, shall, upon motion of any party, after notice and hearing, take account of all receipts and expenditures properly had and incurred by said water companies and by said Carleton belonging to the period from and after November fifteenth, nineteen hundred and twenty-three, and all net rents and profits accruing thereafter, and shall order the net balance due to any party to be added to or deducted from the amount to be paid under the final decree, as the case may be. All findings of law or fact by such single justice at such hearings shall be final. The amount to be paid for the plant of each of the said parties defendant shall be paid to the trustee of the mortgage of each respective company, if any there may be. On payment or tender by its certified check drawn upon a reliable trust company or national bank by said town of Winthrop of the amount so fixed and the performance of all other terms and conditions so imposed by the court, the entire plants, properties and franchises of said parties defendant as described in section one shall become vested in said town of Winthrop. After the filing of said petition, it shall not be discontinued or withdrawn by said town and the said parties defendant, to-wit: said Hillside Water Company, the Winthrop Water Company and the Towle Packing Co., and said Carleton

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may thereafterwards cause said valuation to be made as herein provided, and shall be entitled to appropriate process to compel said town to perform the terms of the final decree and pay for said plants, properties and franchises in accordance therewith. If a vacancy occurs at any time in said board of appraisers, from any cause, any justice of the supreme judicial court, sitting in said county of Kennebec, may, in term time or in vacation, after notice and hearing, appoint a new appraiser or appraisers and make all such orders for hearing said cause by the appraisers anew or for any extension of time for making their award, or otherwise, as the circumstances of the case may require.

Sec. 11. Town to assume certain existing contracts. All valid contracts, made in good faith, existing on the fifth day of February, nineteen hundred and twenty-three, between said parties defendant and any person or corporation for supplying water within the said town of Winthrop shall be assumed and carried out by said town of Winthrop.

Sec. 12. Town authorized to borrow money and issue notes; may issue bonds not exceeding debt limit. For accomplishing the purposes of this act, said town, through its said water commissioners, is authorized to borrow money temporarily and to issue therefor the interest-bearing negotiable notes of the said town of Winthrop, and for the purpose of paying or refunding the indebtedness so created, of paying any necessary expenses or liabilities, incurred under the provisions of this act, including the expenses incurred in the acquiring of the plants of said parties defendant, by purchase or otherwise, or in the purchase or acquisition of the properties and franchises of said parties defendant, of securing sources of supply, taking waters and lands, paying damages, laying pipes, constructing, maintaining and operating a water plant and making renewals, extensions, additions and improvements to the same and other expenses properly incurred in carrying out the provisions of this act, the said town, through its water commissioners, may from time to time issue bonds of the town to an amount which, taken in connection with the other indebtedness of the town of Winthrop, will not exceed the amount limited by the constitution of Maine. And such bonds shall be signed by said board of water commissioners of Winthrop and the treasurer of said town, but the coupons need be signed by said treasurer only, and shall be designated and marked "The Winthrop Water Loan." Said notes and bonds shall be legal obligations of said town and shall be legal investments for savings banks.

Sec. 13. Property exempt from taxation. The property of said town shall be exempt from all taxation in any towns or cities where any part of its water plant may be located.

Sec. 14. Rates; town to raise money for certain purposes; sinking fund.

All individuals; firms and corporations, whether private, public or municipal, shall pay to the treasurer of said town the rates established by said board of water commissioners for the water used by them, and said rates shall be reasonable and uniform. Said town of Winthrop shall annually raise by assessment upon the property within said town in the same manner as is provided by law for the assessment of county and town taxes a sum of money, which, taken together, with the revenue and income in this section hereinbefore mentioned, shall be used and appropriated to the following purposes and uses:

I. To pay the current expenses for operating and maintaining said system.

II. To provide for the payment of the interest on the indebtedness created by the said town.

III. To provide each year a sum equal to not less than one-half of one per centum nor more than five per centum of the entire indebtedness created, as aforesaid, by said town, 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 said town, created as aforesaid, or invested in such securities as savings banks are allowed to hold.

Sec. 15. Incidental powers granted. All incidental powers, rights and privileges necessary to the accomplishment of the main objects herein set forth are granted to said town of Winthrop.

Sec 16. Local referendum provided for. The act shall take effect if and when prior to the first day of April, nineteen hundred and twenty-four, it shall be approved by a majority vote of the legal voters of the town of Winthrop present and voting by ballot at an election to be specially called by the selectmen of said Winthrop upon petition therefor signed by at least twenty legal voters of said town and held for that purpose. Such election shall be called, warned and conducted according to the law relating to municipal elections in said town, provided, however, that the selectmen of said town shall not be required to prepare for posting or the town clerk to post a new list of voters, and for the purpose of registration of voters said selectmen shall be in session the secular day next preceding such special election. The town clerk shall reduce the subject matter of this act to the following question: "Shall the act to supply the town of Winthrop with pure water be accepted?" and the voters shall indicate by a cross over the words "Yes" or "No" their opinion of the same. The result shall be declared by the selectmen and due certificate thereof filed by the town clerk with the secretary of state.

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Sec. 17. Sections 1-8, inoperative unless town acquires by purchase or petitions for exercise of right of eminent domain plants of private owners. Sections one, two, three, four, five, six, seven and eight shall be inoperative, null and void unless the said town of Winthrop shall acquire by purchase or shall first file in the office of the clerk of the supreme judicial court the petition mentioned in section ten hereof for the exercise of the right of eminent domain as in this act provided with a bona fide intent to acquire the plants, properties and franchises of said Hillside Water Company, of said Winthrop Water Company, of the Towle Packing Company and of said Carleton.

Sec. 18. Act in effect 90 days after adjournment of legislature for purposes of election. This act shall take effect in ninety days after the final adjournment of the legislature, so far as necessary to empower the calling and holding of the elections authorized in section sixteen herein provided for.

Approved April 4, 1923.

Chapter 98.

An Act to Incorporate the Winthrop Water District.

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

Sec. 1. Territorial limits; corporation created; purposes. The following territory and the people within the same, namely, that part of the town of Winthrop in the county of Kennebec, beginning on the westerly shore of Lake Annabessacook, at the southerly corner of land of Roy W. Thomas, thence running westerly along the southerly line of land of said Thomas to the highway which passes the residence of A. Wilton Black; thence across said highway along the southerly and westerly line of land of said Thomas to the state highway leading from Winthrop to Lewiston, thence across said state highway to the westerly line of land of Walter J. Laughlin, thence running along the westerly line of said Laughlin and along the westerly line of land formerly of James Smith, the westerly line of land formerly of the late Levi Jones and the westerly line of land formerly of the late A. P. Snow, known as the "Parsons field," to High street; thence running northerly across said High street along the easterly line of land of R. Crawford McIlroy, formerly of William N. White, to land of E. W. Wentworth; thence along the south, west and north lines of land of said Wentworth to the Readfield corner road, so-called; thence across said Readfield corner road and running northerly along its westerly line to land of Mary W. Moody and Eva L. Moody; thence easterly along the northerly line of land of the said Moodys to Lake Maranacook; thence across said Lake Maranacook to the north-