

# 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  
Legislature

1923

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## CHAP. 98

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.

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## 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-

west corner of land of the Winthrop Mills Company, formerly of Luella F. Beale; thence easterly along the northerly line of lands of said Winthrop Mills Company and of Garold M. Joy to the westerly line of land of William C. Hinds, thence northerly and easterly along the westerly and northerly line of land of said Hinds to land of Herbert E. Foster; thence easterly along the northerly line of land of said Foster to the brook at the foot of Woodcock Hill, so-called, thence along the line of said brook to the state highway leading from Winthrop to Augusta; thence across said state highway along the line of said brook to the Narrows pond, so-called; thence running southerly along the westerly shore of said Narrows pond to the Narrows road, so-called; thence across said Narrows road to the northerly line of land of A. V. Towns; thence westerly along the northerly line of lands of said Towns, of F. E. Webb and of Ellsworth Hayward to the easterly line of land of Carl R. Harriman; thence running southerly and westerly along the easterly and southerly line of land of said Harriman to the East Monmouth road, so-called; thence running westerly across said East Monmouth road and along the southerly line of land of said Harriman to Lake Annabessacook aforesaid; thence running westerly across said Lake Annabessacook to the point of beginning, shall constitute a body politic and corporate under the name of the Winthrop Water District, for the purposes of supplying the inhabitants of said district and also any other portion of said town of Winthrop or any other municipality or water district with pure water for domestic, sanitary, commercial and municipal purposes.

**Sec. 2. Authorized to take, hold and distribute water.** The said district, for the purpose of its incorporation, is hereby 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 and springs in said Winthrop.

**Sec. 3. Authorized to take and hold lands and water rights; right of eminent domain conferred.** The said district, for the purpose of its incorporation 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. 4. Authorized to lay and maintain pipes, etc.** The said district

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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 and fixtures as may be necessary and convenient for its corporate purposes, and whenever said district shall lay any pipes 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 unnecessary delay, cause the earth and pavement removed by it to be replaced in proper condition.

**Sec. 5. Authorized to erect and maintain dams, reservoirs, etc.** The said district is hereby authorized, for the purposes of its incorporation, to erect and maintain all dams, reservoirs, and structures necessary and convenient for its corporate purposes.

**Sec. 6. 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 franchise of the water companies by it acquired, the said district 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 name of the owners thereof, if known. When for any reason the district 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 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 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 district until payment therefor.

**Sec. 7. How damages assessed in cases of disagreement.** 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 the county where said lands or water rights are situated, may have said damages assessed by them; the procedure and all subsequent proceedings and rights of appeal thereon shall be had 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. 8. 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 district, 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 district.

**Sec. 9. Management of affairs of district by board of trustees appointed by municipal officers of Winthrop; organization of board; terms of office and compensation; report.**

All the affairs of said water district shall be managed by a board of trustees composed of three members, all of whom shall be residents of said district. They shall be appointed by the municipal officers of the town of Winthrop. As soon as convenient after the members of said board have been so chosen, said trustees shall hold a meeting and organize by the election of a president and clerk, adopt a corporate seal and when in their judgment necessary, may choose a treasurer and all other needful officers and agents for the proper conduct and management of the affairs of said district. At said first meeting they shall determine by lot the term of office of each trustee 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 trustees shall be eligible to reappointment, but no selectman of said town of Winthrop shall at any time be eligible to such office; said trustees may also ordain and establish such by-laws as are necessary for their own convenience and the proper management of the affairs of the district. The term of office of said trustees first chosen shall be considered to date from the first Monday of April in the year one thousand nine hundred and twenty-three; 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 one hundred dollars per annum, or such other less sum as the said water district at any legal meeting may prescribe. At the close of each fiscal year the trustees shall make a detailed report of their doings, of the receipts and expenditures of said water district, of its financial and physical condition, and of such other matters and things pertaining to said district as shall show the inhabitants of said district how said trustees are fulfilling the duties and obligations of their trust, such reports to be made and filed with the municipal officers of the town of Winthrop.

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**Sec. 10. District authorized to acquire by purchase or by right of eminent domain certain private plants; district authorized to construct and maintain a sewerage system.** 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 district 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 Winthrop village, 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 water district. Said water district is authorized to construct, install, operate, and maintain, in connection with its said water system, a sewerage system and plant with all its appurtenances thereto, throughout its entire territory 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. 11. Procedure in case district and owners of existing private plants fail to agree on terms of purchase.** In case the said trustee fails to agree with the aforesaid companies, to wit: the said Hillside Water Company, the Winthrop Water Company, the Towle Packing Company and the said Carleton, any or all of them, upon terms of purchase, on or before June fifteenth, nineteen hundred and twenty-four, then said water district, through its trustees, is hereby authorized to take the plants, properties and franchises of the aforesaid companies and of the said Carleton as authorized in section ten as for public uses, by petition therefor in the manner as provided hereinafter wherein such companies and the said Carleton shall be the parties defendant. And said water district, through its trustee, is hereby 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 defendant companies and the said Carleton 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 defendant companies and of said Carleton as described in section ten. 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 defendant companies and the said Carleton 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 said defendants; 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

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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 said defendants named in section ten, externally and internally, all work connected therewith to be in the presence of the agents of the said defendants, but wholly at the expense of said water district, 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 defendant companies and of said Carleton at what they are fairly and equitably worth so that said defendant companies and the said Carleton 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 rents 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 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 over which is hereby conferred with the same power to enforce said decree as in equity cases. All the costs 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 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 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 thirteen, and all net rents and profits accruing thereafter, and shall order the net balance due to any party to be added or deducted from the amount to be paid under such 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 aforesaid water companies and of said Carleton shall be paid to the trustee of the mortgage of each respective company, if any there be. On payment or tender by its certified check drawn upon a reliable trust company or national bank by said water district the amount so fixed and the performance of all other terms and conditions so imposed

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by the court, the entire plants, properties and franchises of said defendant companies and of said Carleton, as described in section ten shall become vested in said water district. After the filing of said petition it shall not be discontinued or withdrawn by said water district, and the said water companies may thereafter 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 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. 12. District 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 defendant companies and said Carleton and any person or corporation for supplying water within the said town of Winthrop shall be assumed and carried out by said water district.

**Sec. 13. District authorized to borrow money and issue notes; may issue bonds; district declared to be a quasi-municipal corporation.** For accomplishing the purposes of this act, said water district, through its trustees, is authorized to borrow money temporarily and to issue therefor the interest-bearing negotiable notes of the district, 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 creation of the district, in acquiring the plants, properties and franchises of said Hillside Water Company, of the Winthrop Water Company, of the Towle Packing Company and of said Carleton, by purchase or otherwise or in the purchase or acquisition of the properties and franchises of said defendant companies and of said Carleton of securing sources of supply, taking water and lands, paying damages, laying pipes, constructing, maintaining and operating a water plant, and making renewals, extensions, additions and improvements to the same, the said water district, through its trustees, may from time to time issue bonds of the district to an amount or amounts necessary in the judgment of the trustee aforesaid. Said notes and bonds shall be legal obligations of the 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 notes and bonds shall be legal investments for savings banks.

**Sec. 14. Property exempt from taxation.** The property of said district shall be exempt from all taxation in the town of Winthrop and in any other towns where any part of its plant may be located.

**Sec. 15. Rates; application of revenues; sinking fund; surplus and deficit; may assess taxes.** 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, and said rates shall be uniform within the territory supplied by the district. Said rates shall be so established as to provide revenue for the following purposes:

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

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 one-half of one per centum nor more than five per centum 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 are allowed to hold.

IV. If in any year there remain a surplus at the end of the year, the amount of such surplus shall be deducted from the hydrant rental paid to the district by the town of Winthrop, and if in any year there be a deficit, the water district may raise by assessment such sum of money as may be necessary and sufficient to liquidate such deficit, but this subsection is not to be construed as negating the effort of subsection III hereof. Any money raised by said water district for the purposes aforesaid, shall be assessed upon the property and polls within the aforesaid territory constituting said water district, by the trustees of said district, in the same manner as is provided by law for the assessment of county and town taxes; and said trustees may copy the last valuation of said property by the assessors of the town of Winthrop and assess the taxes thereon if said water district so direct, and may abate any tax by them so assessed, and the tax on polls shall not exceed, at any one assessment, the sum of one dollar to any one person in any one year.

**Sec. 16. Incidental powers granted.** All incidental powers, rights and

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privileges necessary to the accomplishment of the main object herein set forth are granted to the public municipal corporation hereby created.

**Sec. 17. Local referendum provided for.** This act shall take effect when approved by a majority vote of the legal voters resident within said district by ballot at an election to be specially called by the selectmen of said town of Winthrop upon petition therefor signed by at least twenty legal voters resident within said district and held for that purpose unless said town of Winthrop is authorized by a special act of the legislature at its present session to install in similar manner a system of water works in said Winthrop and the same is accepted by the voters of said town of Winthrop, in which event this act shall become null and void, nothing hereinbefore or hereinafter to the contrary notwithstanding. 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 incorporate the Winthrop Water District be accepted?" and the voters shall indicate by a cross placed upon their ballots 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.

**Sec. 18. Sections 2-8, inoperative unless district acquires by purchase, or petitions for exercise of right of eminent domain, plants of private owners.** Sections two, three, four, five, six, seven and eight of this act shall be inoperative, null and void, unless the said water district shall acquire by purchase or shall first file in the office of the clerk of the supreme judicial court for the county of Kennebec the petition mentioned in section eleven 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 said Towle Packing Company and of said Carleton.

**Sec. 19. Act in effect in 90 days after adjournment of legislature for purposes of election.** Subject to the conditions, limitations and exceptions hereinbefore provided, 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 seventeen herein provided for.

Approved April 4, 1923.