

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE

1895.

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PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE.

1895.

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pany, and on filing certificate thereof, in the office of the secretary of state, the charter of said Lawry Dam Company shall become null and void, and until said purchase, or the repeal of said charter of the Lawry Dam Company, all dams erected by the corporation created by this act, except the dams below said Burrill's mill, shall be provided at all times with suitable and convenient sluiceways for the passage of logs, and flood gates for passage of sufficient water for driving logs; and until such purchase or repeal, said dams shall be so operated as to facilitate the driving of logs until the twentieth day of May of each year as far down as Long lake. No more water is to be used for this purpose than reasonably required for driving such logs.

—proviso.

Provided, however, that none of the rights and powers conferred by this act shall be so construed as to impair or conflict with any of the rights and powers of the Lawry Dam Company.

First meeting,
how called.

SECT. 15. The first meeting of said corporation shall be called by notice in writing, signed by any two corporators, to be served in hand or by mail, postage prepaid, at least ten days before the day appointed therefor. At such meeting any corporator may be represented and act by proxy.

Act null, if
works are not
commenced
within two
years.

SECT. 16. This act shall be null and void unless said corporation shall actually commence business within two years from the approval hereof.

SECT. 17. This act shall take effect when approved.

Approved March 26, 1895.

Chapter 280.

An Act to supply the city of Hallowell with pure water.

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

City may take
water from
Cobbossee-
contee
stream.

SECT. 1. The city of Hallowell is hereby authorized to take, hold and convey into, about and through the said city from any point in Cobbosseecontee stream that may be deemed expedient, between the dam at the outlet of Cobbosseecontee Great pond and dam number eight, on said stream, water sufficient for the use of said city and the inhabitants thereof for domestic and municipal purposes; and may flow,

take and hold, by purchase or otherwise, subject to the limitations of this act, any lands or real estate for laying and maintaining pipes for conducting, discharging, disposing of and distributing water, and for constructing and maintaining reservoirs, standpipes, dams and such other works as may be deemed necessary or proper for raising, forcing, retaining, distributing, discharging or disposing of said water, and for the erection of any works for said purposes.

May lay and maintain pipes, etc.

SECT. 2. Said city may purchase or take and hold, and forever maintain any dam, or privilege, on said stream between said outlet dam and said dam number eight, subject to the limitations of this act. It may also lay and maintain pipes from said stream at said point, to, into, through and about said city and secure and maintain the same by any suitable works therefor; may make and establish such public fountains and hydrants in such places as may from time to time be deemed proper; may regulate the use of said water within said city, and establish, receive and collect the rates to be paid therefor; and the said city may, for the purposes aforesaid, carry and conduct and maintain any pipes or other works by it to be made, laid down, or conducted, over, under, through or across any water course, stream, bridge, railroad, street railroad, highway or other way in such manner as not to obstruct the travel or full beneficial use thereof; may enter upon and dig up any such road, street or way for the purpose of laying down pipes beneath the surface thereof and for maintaining and repairing the same; and in general, may do any other acts and things necessary or convenient and proper for carrying out the purposes of this act with its limitations.

May purchase dams, etc.

May establish rates for supply of water.

SECT. 3. In taking any dam or privilege on said stream, the said city shall only take the same subject to the servitudes thereon or easements therein now held by the owners of the said outlet dam, and such easements and servitudes, except as to the diversion of water through said pipes, or exempt from the power of taking otherwise herein granted. The said city shall have the right to take and divert from said stream at the point above limited not exceeding five hundred thousand gallons of water per day, paying therefor in the manner hereinafter provided; it may also take so much of the easements and superior rights owned or held by the owners of said out-

Shall be subject to the same servitudes, or easements, as owners.

—amount of water to be taken.

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Gardiner
Water Power
Co. may
inspect
works.

let dam as shall be necessary to furnish at the pumps of said city the quantity of water per day so to be taken and diverted as aforesaid. The Gardiner Water Power Company, its successors and assigns, shall have the right at any and all reasonable times, of inspecting the pumping station and the records of the pumping works of said city, and said city shall place and keep revolution counters and an accurate record of the same open at all times to the inspection of all parties interested. Or said city, in lieu of taking water from said stream, as aforesaid, may take and divert from Cobbosseecontee Great pond, above said outlet dam, to the amount aforesaid, subject to the provisions of this act.

May lay and
maintain
pipes, in and
over stream.

SECT. 4. Said city is authorized to lay and maintain its pipes under, in and over the Cobbosseecontee stream and to build and maintain all necessary structures therefor.

Shall file
plans of
location, etc.

SECT. 5. Said city shall file in the registry of deeds for the county of Kennebec, plans of the location of all land, interests in real estate, water and water rights, taken under the provisions of this act; stating therein the quantity of water so to be taken and diverted per day as aforesaid and the easements and servitudes so to be taken as hereinbefore described and limited; and no other entry shall be made on any lands so taken, except to make surveys, until the expiration of ten days from such survey; and with said plan said city may file a statement of the damages it is willing to pay to any person for the property or rights so taken, and if the amount finally awarded does not exceed that sum, the city shall recover costs against such person, otherwise such person shall recover costs against the city.

City shall be
held liable to
pay all dam-
ages, for any
injuries
resulting
from this act.

SECT. 6. Said city shall be held liable to pay all damages that shall be sustained by any persons or corporations by the taking of any lands, interests in real estate, water, water rights, rights of way, or other property, or by excavating through any land for the purpose of surveying for, locating, maintaining, laying or building dams, reservoirs, standpipes, stations, pipes, hydrants or other structures, by taking and holding any lands necessary for flowage, and for any other injuries resulting from the exercise of any of the powers granted by this act; and if any person sustaining damage as aforesaid shall not agree with said city upon the sum to be paid therefor, either party, on petition to the county commis-

sioners for Kennebec county within twelve months after said plans are filed, may have said damages assessed by them, and subsequent proceedings and right of appeal thereon shall be had in the same manner and under the same restrictions, conditions and limitations as are by law prescribed in the case of damages by the laying out of highways. Failure to apply for said damages within said twelve months shall be held to be waiver of the same.

SECT. 7. The rights, powers and authorities given to the city of Hallowell, by this act, shall be exercised by the said city, subject to the restrictions, duties and liabilities herein contained, in such manner and by such commissioners, officers, agents and servants, chosen at such times and for such terms of office as the city council of said city shall from time to time ordain, appoint and direct.

All rights shall be exercised by city.

SECT. 8. For the purposes hereof, said city is authorized from time to time, to grant, assess, collect and appropriate in the same manner as other money is granted, assessed, collected and appropriated for other city purposes such sums of money not exceeding twenty thousand dollars as may be necessary herefor. Said city is further authorized to raise money therefor by issuing and selling its bonds, from time to time, as the same shall become needful, to such an amount as may be necessary and otherwise lawful. Said bonds shall be designated and marked, City of Hallowell Water Loan Bonds, on such time and rates and in such form as the city council may determine.

May assess and collect money, as for other purposes.

—may issue bonds.

SECT. 9. The said city is authorized to establish, assess, collect and receive such water rates as shall pay the interest on said bonds, the expenses of carrying on or running said works, and repairing the same, and for the creation of a sinking fund as hereafter provided. And the city council of said city is authorized, from time to time, to grant, assess, collect and appropriate in the same manner as other money is granted, assessed, collected and appropriated for other city purposes, such sums of money as shall be necessary to pay any deficiency in the amount assessed and collected, as aforesaid, through said water rates, to pay said interest and expenses and for the creation of said sinking fund.

May establish water rates, etc.

SECT. 10. In order to create a sinking fund to pay and extinguish said bonds at maturity, said city is authorized to

Sinking fund created.

CHAP. 280 annually grant, assess, collect and appropriate in the same manner as other money is granted, assessed, collected and appropriated for other city purposes a sum not exceeding five thousand dollars a year and for such number of years that said fund thus created, with accumulated interest or income thereof, shall meet said bonds at maturity; said money thus raised shall be held and invested in the purchase of bonds of said city or in such investments as are permitted by law in the case of savings banks.

Act null,
unless water
is supplied
within four
years.

SECT. 11. This act shall be null and void unless the said city shall commence to supply water hereunder within four years from the approval of this act.

Agreement
between city,
and Hallowell
Water Co.

SECT. 12. Subject to the provisions hereinafter contained, the preceding sections of this act shall not take effect, unless the said city of Hallowell shall, within eighteen months after approval hereof, give the Hallowell Water Company a written notice offering to buy all its property, franchises if any, rights and privileges except only its cash assets, at a price to be determined in the manner hereinafter provided, and unless said city shall also thereafter pay therefor the price thus determined. Unless said city and said company shall otherwise agree on the price to be paid, then within three months after the giving of said notice, but not thereafter, either said city or said company may file in the clerk's office of the supreme judicial court, in and for the county of Kennebec, either in term time or vacation, its request to the court to appoint a commission, for the purposes hereinafter set out, to consist of three disinterested persons, none of whom shall be residents of Kennebec county; at least one of whom shall be learned in the law, and the others well qualified to judge of the value of said property, franchises if any, rights and privileges. Thereupon, after reasonable notice ordered by the court sitting in said county, or by any judge, either the court or such judge in vacation, in said county or elsewhere, may appoint said commission. Such commission shall, as soon as may be, but after reasonable notice, hear the parties, their proofs, and arguments, and determine the value of said property, franchises, if any, rights and privileges, except only cash assets as aforesaid. The commission shall have power to compel the 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. The commission, or a majority thereof, after such hearing, shall report to the court, in said county, in term time, what in its judgment is a fair and just value of the property, franchises, rights and privileges, which it is directed to appraise, and all other findings which it may have been directed by the court or judge to make, and such papers and proofs taken by it, as the court or any judge thereof has directed, or may from time to time direct it to return; and in its report, the commission shall state the date as of which the value aforesaid was fixed, from which date interest on said award shall run. The court may confirm such report or reject it, or recommit the same, or submit the subject matter thereof to a new commission. The fees and expenses of all the commissioners shall be paid to them, one-half by the city and one-half by the Hallowell Water Company. All proceedings of the court, or any judge, with reference to any matter herein, raising a question of law, whether in term time or vacation, shall be subject to exceptions in the manner provided by statute. But notwithstanding said exceptions, the case shall proceed at nisi prius, and shall not be marked 'law' until after judgment is entered, as hereinafter set forth, unless the court or the judge, being of the opinion that any question involved is sufficiently important, shall otherwise order. When the court confirms the report of the commission, it shall enter judgment thereon, and within two calendar months after the entry of such judgment, the city shall notify the said company, in writing, of its willingness to purchase said property, franchises, rights and privileges, at the price determined by said judgment and to pay said company therefor. If said city shall not thus notify within said two months, then it shall be held to pay to said water company all reasonable charges incurred on account of said appraisal, including counsel and witness fees, and fees and expenses of commissioners paid by it; all items to be passed upon, without appeal, by the single justice presiding at the next term of the supreme judicial court for Kennebec county, sitting after the expiration of said two months, and for the amount thus fixed, execution shall issue in favor of said water company against

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said city. And within two calendar months after such notice is received by said company, it shall notify said city, in writing, that it will or will not, sell its property to said city at said price; and if said company shall accept the offer, it shall forthwith cause deeds of transfer and conveyance to be made and filed in the clerk's office of the supreme judicial court for Kennebec county, for the inspection of the city of Hallowell, and to be approved by the court, or any justice thereof, in term time or vacation. Said deeds shall convey all the property, franchises, rights and privileges, except cash assets, then owned by the said Hallowell Water Company to said city, subject to any mortgages given to secure the payment of debts existing thereon at the time the notice is given by the city, as hereinbefore provided and subject to a lien for the adjustment of matters remaining to be adjusted as hereinafter set out. And when said deed or deeds shall be approved as aforesaid, they shall be delivered to said city, and said city shall thereupon pay said company the amount determined by said judgment and interest thereon, less the face value and accrued interest of any debts secured by any existing mortgage of any of its property and franchises, as hereinbefore provided. If at the time of said conveyance, there shall be any existing mortgage, as aforesaid the city shall assume the payment of all the principal sums and interest, remaining unpaid, or thereafterwards coming due, and the city, so far as lawful under the provisions of the constitution of the state, shall be holden to pay all the sums so assumed. Nothing in this act, nor any proceedings thereunder, so long as the same are pending, until conveyance is made, as hereinbefore directed, shall prevent or embarrass the Hallowell Water Company from supplying water as authorized by its charter, or extending its works, or making any improvements which will inure to its own interests, or the interests of the inhabitants of Hallowell, nor from receiving water rents and other dues and tolls, thereafter accruing. After said property, rights, franchises and privileges are transferred, as hereinbefore provided, the court shall take account of all receipts and expenditures properly had or incurred by the Hallowell Water Company, from and after the date on which said property is valued, as aforesaid, and shall enter judgment for the net balance for or against the Hallowell Water Company, as

the case may be, and shall fix the time within which the same shall be paid. And in the event the same is in favor of the Hallowell Water Company, if not paid within the time so fixed, the court shall enforce the same against the property, franchises, rights and privileges conveyed as aforesaid by sale or otherwise, according to the principles governing courts in equity, with reference to enforcing liens and securities, and by issuing execution against the city, as far as may lawfully be done under the constitution of the state, and in like manner it shall issue execution against the Hallowell Water Company, for any balance then due from it. When said conveyance is made as aforesaid to said city, and payment therefor made, the city shall thereupon enter into possession and control of the property, rights, franchises and privileges therein transferred, subject to be divested thereof only upon a failure to pay the mortgage indebtedness aforesaid of the Hallowell Water Company, or otherwise, as is herein provided. Provided, nevertheless, that if the Hallowell Water Company shall refuse to accept the price as determined by said judgment, or to sell its property therefor, or shall neglect to notify said city, within the time limited by this section, of its acceptance or refusal, then all other sections of this act shall have the same effect as though this section did not exist.

SECT. 13. Except as herein otherwise provided, this act shall take effect when approved.

Approved March 26, 1895.