

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

115

PASSED BY THE

FORTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1866.

Published by the Secretary of State, agreeably to Resolves of June 28, 1820,
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1866.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1866.

Chapter 159.

CHAP. 159.

An act to supply the people of Portland with pure water.

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

SECT. 1. John B. Brown, St. John Smith, Samuel E. Spring, Rensalaer Cram, Rufus E. Wood, Jacob McLellan and Dennis W. Clark, with their associates and successors, are hereby made a corporation by the name of the Portland Water Company, for the purpose of conveying to the city of Portland, a supply of pure water for domestic and municipal purposes, including the extinguishment of fires, the supply of shipping and the use of manufacturing establishments.

Corporators.

Corporate name and purpose.

SECT. 2. Said corporation may hold real and personal estate necessary and convenient for the purposes aforesaid, not exceeding in amount one million dollars.

Estate.

SECT. 3. Said corporation is hereby authorized, for the purposes aforesaid, to take and hold the water of Long Creek, so called, and of all streams tributary thereto in the town of Cape Elizabeth, and may also take and hold, by purchase or otherwise, any land or real estate necessary for erecting and maintaining dams and reservoirs and for laying and maintaining aqueducts for conducting, discharging, distributing and disposing of water, and for forming reservoirs thereof.

Powers, &c.

SECT. 4. Said corporation shall be liable to pay all damages that shall be sustained by any persons in their property by the taking of any land or mill privilege, or by flowage, or excavating through any land for the purpose of laying down pipes, building dams, or constructing reservoirs; and 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 manner and under the same conditions, restrictions and limitations as are by law prescribed in the case of damages by the laying out of highways.

Liabilities for flowage and land damages.

SECT. 5. The capital stock of said company shall not exceed one million dollars, and shall be divided into shares of one hundred dollars each. Said capital stock shall be applied exclusively to the supply and distribution of water for the purposes set forth in this act.

Capital.

SECT. 6. The city of Portland shall have the right, at any time within five years from the date of approval of this act, to take, exercise and control, all the property, rights, powers and privileges of said corporation, on paying to said corporation the amount of money actually paid in and expended under the provisions of this act, with ten per centum additional; and in case said city and said corporation shall not agree upon the sum to be paid therefor, the

Transfer of rights, property, &c., to city of Portland by sale.

CHAP. 159.

S. J. court may appoint commission to adjudicate.

supreme judicial court, at any term thereof holden in the county of Cumberland, upon application of said city, shall appoint three commissioners whose duty it shall be to hear the parties and determine what amount has been expended under the provisions of this act; the report of whom, or the major part of whom, when made and accepted by the court shall be final; and upon payment of that sum the franchise of said corporation, with all the property, rights, powers and privileges, shall vest in and belong to said city of Portland.

City may succeed to rights herein granted in case of failure to organize, &c.

SECT. 7. If said corporation shall not be organized and its works put into actual operation within three years from the approval of this act, the city of Portland shall succeed to all the rights and privileges herein granted.

Liabilities for injury of private property.

SECT. 8 Nothing contained in this act shall be construed to affect or diminish the liability of said corporation for any injury to private property by depreciating the value thereof or otherwise, but said corporation shall be liable therefor in an action on the case.

Rights of way, &c.

SECT. 9. The said company are hereby authorized to lay down, in and through the streets of said city, and to take up, replace and repair, all such pipes, aqueducts and fixtures as may be necessary for the objects of their incorporation, first having obtained the consent of the city council therefor, and under such restrictions and regulations as said city council may see fit to prescribe; and any obstruction in any street of said city, or taking up, or displacement of any portion of any street without such consent of the city council, or contrary to the rules and regulations that may be prescribed as aforesaid, shall be considered a nuisance, and said company shall be liable to indictment therefor and to all the provisions of law applicable thereto; and said company shall, in all cases, be liable to repay to said city all sums of money that said city may be obliged to pay on any judgment recovered against said city for damages occasioned by any obstructions, or taking up, or displacement of any street by said company whatever, with or without the consent of the city council, together with counsel fees and other expenses incurred by said city in defending any suit to recover damages, as aforesaid, with interest on the same, to be recovered in an action for money paid to the use of said company.

Obstructions.

Liabilities in case of damages caused by obstructions.

Construction and repairs.

SECT. 10. Whenever the company shall lay down any pipes or aqueducts in any street, or make any alteration or repairs upon their works in any street, they shall cause the same to be done with as little obstruction to the public travel as may be practicable and shall, at their own expense, without unnecessary delay, cause the earth and pavement removed by them, to be replaced in proper condition. They shall not be allowed, in any case, to obstruct or impair the use of any public or private drain, or common

Obstruction of sewers, &c.

sewer or reservoir ; but said company shall have the right to cross, or where necessary, to change the direction of any private drain in such a manner as not to obstruct or impair the use thereof, being liable for any injury occasioned by any such crossing or alteration, to the owner thereof or any other person, in an action upon the case.

SECT. 11. Said corporation shall furnish at all times, to the city of Portland, without expense to the city, for use in the public buildings and school houses of the city, and for the extinguishment of fires, such amount and volume of water as may be needful therefor ; the necessary pipes and hydrants for distribution thereof for the purposes named in this section, being furnished, laid and connected with the pipes of this company at the expense of the city.

SECT. 12. At any time after the organization of this corporation, the city of Portland shall be authorized, upon a vote of the city council to that effect, to take and hold in the capital stock of the company an amount not exceeding one half thereof, upon paying to the company a like proportional part of the cost up to such time of all their buildings, works, dams, reservoirs, pipes and other property, and ten per centum of such proportional part in addition thereto. The amount so received by the company for the proportional part so taken by the city, shall be distributed and paid over to the other stockholders, in proportion to their several interests, and the par value of the several shares held by them shall be reduced accordingly. The company shall at the same time create and issue to the city such a number of shares of the same par value, together with a fractional share, if necessary, as shall represent the whole amount paid by the city for the proportional part of the capital stock so taken ; at all meetings of the stockholders of the company the shares held by the city shall be represented by such agent as the city council may, by vote from time to time, appoint, who shall be entitled to cast one vote for every share held by the city, and if said company shall neglect to comply with the provisions of this section for the space of one month after an offer and request from the mayor to that effect, all the rights and privileges of said company shall wholly cease and be of no effect ; and in the event of a disagreement between the said company and the city as to the cost, up to the time of such offer, of the property of said company as hereinbefore set forth, then upon application of said city the same shall be determined by commissioners appointed in the same manner as is provided in the sixth section of this act, whose report when accepted by the supreme judicial court shall be final and conclusive as to the amount of cost up to such time of the property of said company.

CHAP. 159.

Drains.

Water for public buildings and school houses to be free.

City may take stock.

Proceeds from sale of stock, how to be disposed of.

Shares and representation of same by vote.

Forfeiture.

Disagreement how settled.

CHAP. 159.

Damages,
wilful or by
neglect to
streets.

SECT. 13. If said company or any of their servants or officers employed in effecting the objects of the company shall wilfully or negligently place or leave any obstructions in any of the streets of Portland, beyond what is actually necessary in constructing their works, laying down, taking up, and repairing their pipes and fixtures, or shall wilfully or negligently omit to repair and put in proper condition any street in which the earth or pavement may have been removed by them, the company shall be subject to indictment therefor, in the same manner that towns are subject to indictment for bad roads, and shall be holden to pay such fine as may be imposed therefor, which fine shall be collected, applied and expended in the same manner as is provided in case of the indictment aforesaid against towns, or may be ordered to be paid into the treasury of the city. If any person shall suffer injury in his person or property by reason of any such negligence, wilfulness or omission, he shall be entitled to recover damages of the company, therefor, by an action on the case in any court of competent jurisdiction.

Indictment.

Fine.

Damages to
persons and
property.

How recov-
erable.

Malicious
injury to
property and
waters of co.

SECT. 14 Any person who shall maliciously injure any of the property of said company, or who shall corrupt the waters of said creek or any of its tributaries, or render them in any manner impure, or who shall throw the carcasses of dead animals or other offensive matter or materials into the waters of said creek or its tributaries, or leave the same upon the same when frozen, or who shall in any manner wilfully destroy or injure any dam, reservoir, aqueduct, pipe, hydrant, or other property held, owned or used by said corporation for the purposes of this act, shall pay three times the amount of damages to said company; to be recovered in any proper action; and every such person, on conviction of either of said acts, shall be punished by fine not exceeding five thousand dollars and by imprisonment not exceeding one year.

Penalty.

Dams.

SECT. 15. If in the erection and construction of the works herein provided for, it shall become necessary to erect any dam or permanent works over tide waters, the said company is hereby authorized to erect, construct and maintain the same, first having the authority in writing of the harbor commissioners of Portland harbor therefor, and the approval of the city council of said city.

Rights invested
in city govern-
ment to regu-
late and
restrict.

SECT. 16. The mayor and aldermen, for the time being, shall at all times have the power to regulate, restrict and control the acts and doings of said corporation, which may in any manner affect the health, safety, or convenience of the inhabitants of said city.

First meeting.

SECT. 17. The first meeting of said corporation may be called by a notice signed by any two of the corporators, published five days successively before the day fixed for such meeting, in any newspaper published in Portland.

SECT. 18. This act shall be taken and deemed to be a public act and shall be in force from and after its approval by the governor. CHAP. 160.

Approved February 23, 1866.

Chapter 160.

An act to incorporate the Fryeburg Mutual Fire Insurance Company.

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

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| <p>SECT. 1. Samuel Chandler, Appleton Knight, Moses Chandler, Joseph Chandler, H. G. Farrington, Fred. F. Frye, Charles C. Stevens, and all others, who may hereafter become members of said company in manner herein prescribed, are hereby incorporated and made a body politic by the name of the Fryeburg Mutual Fire Insurance Company, for the purpose of insuring dwelling-houses, stores, shops, barns and other buildings, household furniture, merchandise and other property, the contents of any building, against loss or damage by fire, whether the same happen by accident, lightning or any other means excepting that of design in the insured, and may purchase and may hold such real and personal estate as may be necessary to effect the object of this association, and may sell and convey the same at pleasure.</p> | <p>Corporators.</p> <p>Corporate name and purpose.</p> <p>Estate.</p> |
| <p>SECT. 2. They may make, establish and put in execution such by-laws, not contrary to the laws of the state, as may seem necessary or convenient for the regulation and management of their affairs, and do and execute all such acts as may be necessary to carry into effect the purposes intended by this act.</p> | <p>By-laws, &c.</p> |
| <p>SECT. 3. The first meeting may be called by any three persons named in this act, by posting up in four public and conspicuous places in their town, notice of the time, place and business to be acted upon, at least ten days before such meeting, at which time and place the members present, may elect all needful officers, fix their compensation and manage their affairs in any manner not repugnant to the general laws of this state relating to such companies.</p> | <p>First meeting.</p> <p>Officers, &c.</p> |
| <p>SECT. 4. No policy shall be issued by said company until applications for insurance shall have been made to the amount of twenty thousand dollars.</p> | <p>Regulation as to issue of policies.</p> |
| <p>SECT. 5. This act shall take effect when approved by the governor.</p> | |

Approved February 23, 1866.