

KFA
1885
17
1885

201

L A W S

OF THE

STATE OF NEW YORK,

PASSED AT THE

ONE HUNDRED AND NINTH SESSION

OF THE

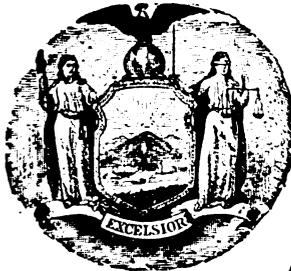
LEGISLATURE,

BEGUN JANUARY FIFTH, AND ENDED MAY TWENTIETH, 1886,
IN THE CITY OF ALBANY.

LAW LIBRARY

MAR 21 1979

UNIVERSITY OF ICWA



ALBANY:
BANKS & BROTHERS, PUBLISHERS.
1886.

Chap. 106.

AN ACT to incorporate the Lockport Water Supply Company.

PASSED April 8, 1886; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. John Hodge, William McRae, James Jackson, Jr., Bird-sill Holly, William T. Ransom, Jesse Peterson, Charles Whitmore, Harvey F. Gaskill, William S. Camp, Eugene M. Ashley and Washington H. Ransom, of the city of Lockport, in the State of New York, and such other persons as they may associate with them under the provisions of this act, shall be and are hereby constituted a body corporate by the name of "Lockport Water Supply Company." The principal office of said company shall be in the city of Lockport.

Corporators.

Corporate name and business location.

§ 2. The capital stock of said company shall be fixed by the directors thereof, not exceeding the sum of ten millions of dollars, and shall be divided into shares of one hundred dollars each.

Capital stock.

§ 3. The persons named in the first section of this act shall be the first directors of said company, but in case any thereof shall fail to become stockholders in said company within one month from and after the organization of the company, and filing the duplicate certificates thereof as hereinafter prescribed, his office shall thereupon be deemed vacant, and be filled as hereinafter provided. Each director shall be a stockholder of the company, and shall hold his office until his successor is chosen. In case of a vacancy in the office of director by death, resignation or ceasing to be a stockholder, such vacancy may be filled until the next annual meeting by the board of directors. The board of directors may remove all officers by it appointed, and appoint others in their respective places, and may fill all vacancies in office for the unexpired portion of the term. If at any time an election of directors shall not take place on the day hereby appointed the company shall not for that cause be dissolved, but an election may be held on any other day in the manner herein provided. The first election of directors under this act shall be held on the first Tuesday in June, eighteen hundred and eighty-seven, and on the same day in each year thereafter, at such hour and place in the city of Lockport as the board of directors may designate, upon a notice therefor, to the stockholders, stating the time and place and object of such meeting, which notice shall be published in at least one daily newspaper in the city of Lockport, for the three successive weeks next preceding the day of such election, and a copy of such notice shall be mailed to each stockholder of the company, at least three weeks previous to the date of said meeting, addressed to him at his last known place of residence, and the postage thereon prepaid. At such election each stockholder personally or by proxy shall be entitled to cast one vote for each share of stock held by him thirty days previous to the date of said election. A majority vote of the ballots cast shall be necessary for the election of each director.

First directors.

Vacancies, how filled.

First election.

Notice thereof.

§ 4. There shall be eleven directors of said company, who shall constitute the board of directors. The board of directors shall elect a president, a vice-president, a secretary, a treasurer, and such other officers of the company, and appoint such agents, as they may deem

Board of directors and officers thereof.

Capital stock, how fixed.

Certificate thereof, how filed.

By-laws.

Subscriptions to stock, and calls thereon.

Liability of stockholders.

Certificate of payment of capital, how filed.

Liability for laborers' wages.

General powers and liabilities.

Company may supply water to other cities, villages, etc. Also for fire and other purposes.

Power of municipalities, etc., to

necessary. As soon after the passage of this act as can reasonably be done, said directors shall meet and elect the officers aforesaid, and fix and determine the amount of the capital stock, the number of shares thereof, and shall thereupon make, sign and acknowledge before some competent officer, duplicate certificates, which shall refer to this act, and recite the name of the company, the names of the members and their several residences, the amount of the capital stock, and the number of shares thereof, and the location of the office of the company. One of said duplicates shall be immediately filed in the office of the Secretary of State, and the other in the office of the county clerk of Niagara county.

§ 5. The board of directors shall have power to make by-laws and rules consistent with the general laws of the State, for the government of said company, its officers and agents, and the control and management of its affairs, business and property, and from time to time change the same; and may require from the stockholders payment of all sums of money by them subscribed, at such times and in such proportions as may be deemed proper, under the penalty of a forfeiture of their respective shares and all payments thereon; first giving notice of each call therefor, by publication of a notice thereof in at least one daily newspaper printed in the city of Lockport, for the thirty successive days next preceding the date for which such call is made, and a copy of such notice shall be mailed to each stockholder, to be affected by said call, at least thirty days before the date for which the same is made, addressed to him at his last known place of residence, and the postage thereon prepaid.

§ 6. The stockholders of said company shall be severally individually liable to an amount equal to the amount of the stock held by each of them respectively, for all debts and liabilities of the company, until the whole amount of the capital stock so held by said stockholders, respectively, shall have been paid in, and a certificate or certificates showing such payment shall have been filed in the office of the county clerk of Niagara county. The president and a majority of the trustees within thirty days after the payment of the last installment of the capital stock, shall make a certificate stating the amount of the capital stock so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the trustees, and they shall, within thirty days, record the same in the office of the county clerk of Niagara county. The stockholders of said company shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants and apprentices for services performed for such company.

§ 7. Except as herein otherwise provided, said company shall possess the powers and be subject to the restrictions and liabilities prescribed in title three of chapter eighteen of part first of the Revised Statutes, so far as the same are applicable thereto.

§ 8. The purposes for which said company is incorporated are the supplying pure and wholesome water to the city of Lockport and the inhabitants thereof, and to any other of the cities, towns or villages which now are or hereafter may be within the county of Niagara, and the inhabitants thereof, and the accumulating, conducting, storing, selling, leasing, furnishing and supplying water for fire, sanitary, municipal, domestic, manufacturing or agricultural purposes.

§ 9. Said company is authorized and empowered to supply to any of the cities, towns or villages aforesaid, or the inhabitants thereof, pure and wholesome water for the purposes aforesaid, or any thereof, at

such reasonable rates and cost and on such conditions to consumers as may be agreed upon; and any city, town or village aforesaid, by its authorities, may contract with said company for the supplying and delivery of pure and wholesome water for fire, sanitary or other public purposes; such delivery may be through pipes and hydrants or otherwise as may be agreed upon in the special case, and in the city of Lockport such contract may include the operation, supervision, management and ordinary repairs of the water-works of said city, as the same now exist or hereafter may be extended, on such terms and conditions not violate* of the charter of said city, as may be agreed upon. The amount by any city, town or village aforesaid (except the city of Lockport), agreed to be paid therefor, shall be annually raised, levied, assessed and collected in the same manner as other expenses of such city, town or village are or may be raised, and when collected shall be kept separate from other funds of such city, town or village, and be paid over to said company by said authorities according to the terms and conditions of the contract in the special case; and in the city of Lockport such amount shall be raised and paid in the manner provided in and by the charter of said city; provided, however, that no such contract shall be made for a longer period than ten years; and provided, that in towns where there shall be an incorporated village, constituting a part only of such town, no tax shall be levied upon property within the village limits for the purposes of this act, except in pursuance of a contract between the authorities of such village and said company.

contract for water supply.

Delivery, how made.

Provisions as to Lockport city.

Payments for water supply, how raised.

Contracts not to exceed ten years.

§ 10. Said company may, for the purposes of its incorporation, take water from the Niagara river at such point or points between the mouth of the Tonawanda creek and the east line of lot number fifty-two of the mile reserve (so called), as may be most convenient; and may intercept and divert the flow of waters from lands of riparian owners, and from persons owning or interested in waters which are or may be necessary for the purposes of said company; and may prevent the flow or drainage of noxious or impure waters or matters from the lands of others into any canal, raceway, reservoir or other work of said company; and may alter, straighten, deepen, obstruct or increase the flow of water in streams or water channels, intersecting or connecting with, or contiguous to its works, or any thereof; and may discharge water into Lake Ontario, or into Eighteen Mile creek, or other stream or streams, at such point or points, and in such quantity and manner as may be most convenient and advantageous; and may build, erect, construct, dig and lay any canals, raceways, ditches, locks, piers, inlet piers, cribs, bulkheads, dams, gates, sluices, reservoirs, aqueducts, conduits, pipes, culverts or other works, machinery or buildings of every kind and description whatsoever, that may be necessary, proper and convenient for its said purposes, or any thereof, in said river, or upon any land by it held as hereinafter provided.

Right to take water from Niagara river.

Impure drainage may be prevented.

May deepen or alter flow of streams.

Discharge of waters authorized.

Erection of conduits, canals, etc., authorized.

§ 11. Said company may enter upon and use the ground or soil under any street, highway, road, railroad, land or public ground (except Erie canal lands), within said county, for the purposes aforesaid, and may, when necessary, change the location or surface grade of any street, highway or road; and such right shall be continuous for said purposes, including the relaying, repairing, altering or extending its works; provided, however, that in cases where the open canal, or other open work of said company, shall cross any street, highway, road, public

Right to enter upon streets, public grounds, etc.

*So in the original.

Erection of bridges. Pipes, how to be laid.

ground or railroad land, said company shall construct, and at all times thereafter maintain, suitable and proper bridges over its said work where such bridges are rendered necessary by the construction of its said work; and in cases when its pipes or other covered work shall be laid under the surface of any road, street, highway, public ground or railroad land, the surface thereof shall be made and kept suitable for public travel and as nearly as may be as it was before said work was done.

Manner of acquiring title to lands.

Provisions of general water-works act, made applicable.

§ 12. Said company may take lands, waters or easements therein, by gift, devise or purchase, and shall have all the rights, powers, privileges and duties in relation to the taking, acquiring and holding lands, waters, easements and rights (except lands or waters of the Erie canal), necessary for its purposes, by condemnation proceedings or otherwise, which are conferred by chapter four hundred and twenty-three of the laws of eighteen hundred and eighty-five, upon the corporations therein specified, proceeding in the manner therein prescribed as nearly as may be, except that the petition shall show that the provisions of this act have been complied with by said company.

Orders in condemnation, how recorded.

§ 13. Orders under which lands, waters, easements or rights shall be acquired in condemnation proceedings may be recorded in the books wherein deeds are recorded by the county clerk of Niagara county, and be indexed under the name of said company as grantee, and under the name of the person or persons from whom acquired as grantors; and such records shall have the same force and effect as the records of conveyances under the laws of this State.

Right to enter upon lands.

Map and survey of lands sought to be acquired, how filed.

§ 14. Said company, by any of its officers, agents or servants, may, for the purposes aforesaid, enter upon and survey any lands in Niagara county. Before beginning condemnation proceedings to acquire any lands, waters, easements or rights therein, or entering upon or using any thereof, except such as shall have been acquired by gift, devise or purchase, said company shall cause a survey and map to be made of the lands, waters, easements and rights therein, intended to be taken and acquired by condemnation proceedings, by and on which the land, water, easement, or right therein, of each owner and occupant shall be designated, which map shall be signed by the president and secretary of said company, and be filed in the Niagara county clerk's office.

Map, how amended.

Said map may be amended by said company as to any parcel or parcels of land at any time before the appointment of commissioners of appraisal in condemnation proceedings to acquire such parcel, or parcels, or any easement or right therein, by filing in said county clerk's office a new or further map, signed as aforesaid, together with a notice stating in substance that the map then on file has been amended as shown by said new map, and thereupon the said new map shall have the force and effect of the map so amended, and the map so first filed shall be deemed superseded as to the lands described or affected by said amendment, except so far as it relates to proceedings then already had and done.

Effect thereof.

Proceedings to acquire additional lands.

Whenever said company shall deem it necessary to acquire any additional lands, waters, easements or rights therein, it shall, before beginning proceedings to acquire the same by condemnation, cause to be made a like survey and map, which shall be authenticated in like manner, and filed in said county clerk's office, showing such additional lands, waters, easements or rights therein, intended to be taken, and designating the land, water, easement or right therein, of each owner and occupant separately, as far as may be.

Power to borrow money.

§ 15. Said company shall have power to borrow money for the construction of its works; and to issue bonds and mortgage its property

and franchises to secure payment of the same; and may from time to time increase or diminish its capital stock to any amount not in excess of the limit fixed by section two of this act, which the directors may deem sufficient and proper for the purposes of the company, by an affirmative vote of stockholders owning not less than two-thirds of the capital stock then subscribed for, at any meeting of the stockholders duly called, and the signing and acknowledging before some competent officer, by stockholders owning not less than two-thirds of the stock as aforesaid, of duplicate certificates showing the amount of the capital stock of the company, the amount to which it is to be increased or diminished, and the amount of the capital stock owned by each of the persons signing the certificates; one of said duplicates shall be filed in the office of the said county clerk, and the other in the office of the Secretary of State, and when so filed the capital stock shall be increased or diminished to the amount specified in such certificates; provided, however, that if the amount of the debts and liabilities of the company exceeds the amount to which it is proposed to reduce the capital stock, such amount of debts and liabilities shall be satisfied and reduced until it shall not exceed such diminished amount of the capital stock; and, until the debts and liabilities are actually and in good faith so reduced, such proceedings for the diminution of the capital stock shall be void and of no effect.

and issue bonds.
Capital stock may be increased or diminished.

Certificate, how filed.

Proviso as to reduction of capital.

§ 16. All water rents authorized by this act to be established and charged, except those charged against a city, town or village, for municipal purposes, shall be a lien upon the premises on or in which the water shall be used, and may be collected of the person or persons contracting therefor, or liable to pay the same, or such lien may be enforced in the manner provided by law.

Water rents to be a lien against individuals.

§ 17. The word "authorities" as used in this act shall be construed to mean for cities, the common council, water board or other competent charter authority, as the case may be; for villages, the board of trustees and supervisor of the town wherein said village is situate; for towns, the supervisor, justices of the peace, town clerk and commissioners of highways.

Word "authorities" defined.

§ 18. If the work of said company be not actually and in good faith commenced within five years from and after the date of the passage of this act, the corporate powers hereby granted shall cease and determine.

Work to begin within five years.

§ 19. Any person who shall willfully or maliciously destroy, injure or interfere with any canal, raceway, ditch, lock, pier, inlet pier, crib, bulk-head, dam, gate, sluice, reservoir, aqueduct, conduit, pipe, culvert or other work, machinery, building or property of said company, or who shall willfully or maliciously do any act which shall injuriously affect, or tend to injuriously affect, the water of said company, or the supply or quantity, or regulation thereof, shall be guilty of a misdemeanor, and may be punished by fine or imprisonment, or both fine and imprisonment, in the discretion of the court, and shall forfeit and pay to said company, or to any person or persons injured thereby, treble damages, besides the costs of the action, to be recovered in any court having jurisdiction.

Willful injury to water-works, etc., a misdemeanor.

How punished.

§ 20. This act shall take effect immediately.