

L A W S

OF THE

STATE OF ~~NEW~~ YORK,

PASSED AT THE

ONE HUNDRED AND THIRTEENTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY SIXTH, 1890, AND ENDED MAY NINTH, 1890,
IN THE CITY OF ALBANY.



ALBANY:
BANKS & BROTHERS, PUBLISHERS.
1890.

fertilizing material made or owned by parties outside of this state, and offered for sale for use in this state, shall conform to the provisions of this act, and shall be subject to its penalties, and in all particulars shall take the place of their non-resident principals. foreign manufactures to conform to act, etc.

§ 10. Chapter two hundred and twenty-two of the laws of eighteen hundred and seventy-eight is hereby repealed. Repeal.

§ 11. This act shall take effect immediately.

CHAP. 438.

AN ACT to amend chapter one hundred and six of the laws of eighteen hundred and eighty-six, entitled "An act to incorporate the Lockport Water Supply Company."

APPROVED by the Governor May 24, 1890. Passed, three-fifths being present.

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

SECTION 1. Section one of chapter one hundred and six of the laws of eighteen hundred and eighty-six, entitled "An act to incorporate the Lockport Water Supply Company," is hereby amended so as to read as follows:

§ 1. John Hodge, William McRae, James Jackson, Jr., Birdsill Holly, Willard T. Ransom, Jesse Peterson, Charles Whitmore, William Spalding, 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 and Electric Company." The principal office of said company shall be in the city of Lockport. Corporators. Corporate name and location.

§ 2. Section three of said chapter is hereby amended so as to read as follows:

§ 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 filing of the duplicate certificates required by section four of this act, his office shall thereupon be deemed vacant and shall 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 a 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 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 October, eighteen hundred and ninety, 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 three successive weeks Directors. Vacancies. Removal of officers. Failure to hold elections. Election of directors.

next preceding the day of such election. 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.

§ 3. Section four of said chapter is hereby amended so as to read as follows:

Board of directors, and officers.

§ 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 necessary. As soon after the passage of this amendatory act as can reasonably be done, said directors shall meet and elect the officers aforesaid, and fix and determine the amount of 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 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.

Capital stock, how fixed.

Certificates thereof.

§ 4. Section eight of said chapter is hereby amended so as to read as follows:

Purposes of corporation.

§ 8. The purposes for which said company is incorporated are the supplying of pure and wholesome water and electricity, or either thereof, to the city of Lockport and the inhabitants thereof, and to such other cities towns or villages and the inhabitants thereof within the counties of Niagara, Erie and Orleans as may enter into contract therefor, and the accumulating, storing, conducting, transmitting, using, selling, leasing, furnishing and supplying water and electricity, or either thereof, for fire, illuminating, sanitary, municipal, domestic, commercial, manufacturing, agricultural and navigation purposes.

§ 5. Section nine of said chapter is hereby amended so as to read as follows:

Water and electricity, supplying of, to municipalities, etc.

§ 9. Said company is authorized and empowered to use and supply to any of the cities, towns or villages aforesaid, or the inhabitants thereof, pure and wholesome water and electricity for the purposes aforesaid, or any thereof in such way or manner and at such reasonable rates and cost and on such conditions to consumers or users as may be deemed advisable and agreed upon, and any city, town or village aforesaid, by its authorities, may contract with said company for the supplying, delivery and use of pure and wholesome water and electricity, or either thereof, for fire, illuminating, sanitary or other public purposes; 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 violative 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

Contracts with company, municipalities may make.

Payment therefor, how raised.

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.

Proviso as to contracts and taxes.

§ 6. Section ten of said chapter is hereby amended so as to read as follows:

§ 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 the 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, posts, abutments, conductors, cables, wires, insulators or other works, machinery, fixtures, 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 river.

Impure drainage, may prevent.

Alteration of flow of streams.

Erection of works, buildings, etc.

§ 7. Section eleven of said chapter is hereby amended so as to read as follows:

§ 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 counties 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 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 where 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; and in cases of posts and elevated conductors, cables or wires upon and over such road, street, highway, public ground or railroad land, the same shall be so placed and elevated as not to interfere with the ordinary use thereof by the public or railroad company for highway or railroad purposes.

Right to enter upon streets, public grounds, etc.

Erection of bridges.

Laying of pipes

Placing of posts, etc.

§ 8. Section fourteen of said act is hereby amended so as to read as follows:

§ 14. Said company by any of its officers, agents or servants may Entry

upon
lands.

Survey and
map of
lands to be
taken.

Amend-
ment of
map.

Proceed-
ings to ac-
quire ad-
ditional
land.

Power to
borrow
money and
issue
bonds.

Increase or
reduction
of capital.

Certificates
thereof.

Provide as
to reduc-
tion of
capital.

for the purposes aforesaid, enter upon any survey lands. Before beginning condemnation proceedings to acquire any lands, waters, easement, or rights therein, or entering upon or using any thereof, except to survey the same and 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 or on which the land, water, easement or right therein, of each owner or 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. 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. 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 or occupant separately, as far as may be.

§ 9. Section fifteen of said chapter is hereby amended so as to read as follows:

§ 15. Said company shall have the 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 diminished or increased and the amount of capital stock owned by each of the persons signing the certificates; one of the said duplicates shall be filed in the office of 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.

§ 10. Section sixteen of said chapter is hereby amended so as to read as follows:

§ 16. All rents or rates 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 or electricity 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.

Rents a lien upon lands.

How collected or enforced.

§ 11. Section eighteen of said chapter is hereby amended so as to read as follows:

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

Corporate powers, when may cease.

Section 12. Section nineteen of said chapter is hereby amended so as to read as follows:

§ 19. Any person or persons who shall willfully, or maliciously destroy, injure, or interfere with any canal, raceway, ditch, lock, pier, inlet pier, crib, bulkhead, dam, gate, sluice, reservoir, aqueduct, conduit pipe, culvert, post, abutment, conductor, cable, wire, insulator, or other work, machinery, building or property of said company, or who shall willfully or maliciously do any act which shall injuriously affect the water or electricity of said company, or the supply, quantity, transmission 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 persons* or persons injured thereby, treble damages, besides the costs of the action, to be recovered in any court having jurisdiction; the power granted by this act to transmit and use electricity shall be subject to the general laws of the state and the municipal ordinances of the several cities villages and towns within which it shall be transmitted or used.

Willful injury to works, etc. a misdemeanor.

How punished.

Section 13. The title of said chapter is hereby amended so as to read as follows: "An act to incorporate the Lockport Water and Electric Company."

Title of act amended.

Section 14. This act shall take effect immediately.

CHAP. 439.

AN ACT to amend chapter five hundred and forty-six of the laws of eighteen hundred and eighty-seven, entitled "An act to provide for the organization of trust companies, for their supervision, and for the administration of their affairs."

APPROVED by the Governor May 24, 1890. Passed, three-fifths being present.

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

SECTION 1. Section twenty-seven of chapter five hundred and forty-six of the laws of eighteen hundred and eighty-seven, entitled "An act to provide for the organization of trust companies, for their supervision, and for the administration of their affairs" is hereby amended so as to read as follows:

§ 27. The trustees shall have a discretionary power of investing the moneys received by them in trust, in public stocks of the United

Investment of trust funds.

* So in the original.