

Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1825. Fredericton, NB: George K. Lugin, Printer to the King's Most Excellent Majesty, 1825.

6 George IV – Chapter 17

An Act to incorporate sundry persons by the name of the Saint John Water Company. Passed 17th March, 1825.

Whereas it is thought the Establishment of a Water Company in the City of St. John would promote the interests and convenience of the Inhabitants of the City of Saint John by increasing and facilitating the means of procuring Water therein,

I. Be it enacted by the Lieutenant-Governor, Council and Assembly, That the Honorable John Robinson, The Honorable William Black, Nehemiah Merritt, William Bowman, James White, James Ewing, John Ward, Junior, George D. Robinson, Thomas Barlow, James Cudlip, Hugh Johnston, Junior, John M. Wilmot, Henry W. Scott, James Hendricks, Thomas Millidge, Robert W. Crookshank, Zalmon Wheeler, Stephen Smith, Robert Parker, and William B. Kinnear, their Associates, Successors and Assigns, be, and they are hereby declared to be a Body Corporate by the name of "The Saint John Water Company," and that they shall be persons able, and capable in Law, to have, get, receive, take, possess, and enjoy Houses, Lands, Tenements, Hereditaments, and Rents in fee simple, or otherwise, and also Goods and Chattels, and all other things, real, personal or mixt, and also to give, grant, let, or assign, the same or any part thereof, and to do and execute all other things in and about the same as they shall think necessary for the benefit and advantage of the said Corporation, and also that they be persons able and in Law capable to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any Court or Courts of Law or equity, of any other places whatsoever, in all, and all manner of actions, suits, complaints, demands, pleas, causes, and matters whatsoever, in as full and ample a manner as any other person or persons are in Law capable of, suing and being sued, pleading and of being impleaded, answering and of being answered unto, and also that they shall have one common seal to serve for the ensembling of all and singular their grants, deeds, conveyances, contracts, bonds, articles of agreement, assignments, powers and warrants of Attorney, and all and singular their affairs and things touching and concerning the said Corporation; and also that the said Company or the major part of them, shall, from time to time and at all times have full power, authority and licence to constitute, ordain, make and establish such Laws and ordinances as may be thought necessary for the good rule and government of the said Corporation. Provided that such Laws and Ordinances be not contradictory or repugnant to the Laws or Statutes of that part of the United Kingdom of Great-Britain and Ireland called England; or repugnant or contrary to the Laws and Statutes of this Province.

II. And be it further enacted, That the Capital or Stock the said Corporation, shall consist of current Gold and Silver Coins of the Province, to the amount of ten thousand pounds, ten per cent of which to be paid in current Gold and Silver Coins of the Province within six months after the passing of this Act, and the residue thereof as may be required by the President and Directors of the said Company for the service thereof: a months notice being by them previously given in two

of the public Newspapers of the said City of Saint John, that the residue or any part thereof will be required. The whole amount of the said Stock to be divided into Shares of five pounds each, making in the whole two thousand Shares.

III. And be it further enacted, That whenever one thousand Shares have been subscribed, a general meeting of Members and Stockholders, or the major part of them, shall take place by notice in one or more public Newspapers of the City of St. John, thirty days previous to such meeting, for the purpose of making, ordaining and establishing such Bye-Laws, Ordinances, and Regulations, for the good management of the affairs of the Corporation, as they shall deem necessary; and for the purpose of choosing thirteen Directors, being Stockholders and Members of the Corporation, under and in pursuance of the Rules and Regulations hereinafter made and provided, which Director so chosen shall serve until the first annual meeting for choice of Directors, and shall have full power and authority to manage the concerns of the said Corporation, and shall commence the operations of the said Company; subject nevertheless to the Rules and Regulations hereinafter made and provided.

IV. And be it further enacted, That there shall be a general meeting of the Stockholders and Members of the said Corporation, to be annually holden on the second Tuesday in May in each and every year, at the City of Saint John, at which annual meeting there shall be chosen, by a majority thereof, thirteen Directors, who shall continue in office for one year, or until others are chosen in their room, in the choice of which, the Stockholders and Members of the said Corporation shall vote according to the Rule hereinafter mentioned, and the Directors, when chosen, shall at their first meeting after their election, choose out of their number, a President: Provided always, that seven of the Directors in office shall be re-elected, at such annual meeting, for the next succeeding twelve months, of which the President shall always be one.

V. And be it further enacted, That the Directors for the time being, shall have power to appoint such Officers, Clerks, and Servants as they or the major part of them shall think necessary, for executing the business of the said Corporation; and shall allow them such compensation for their respective services, as to them shall appear reasonable and proper: all which, together with the expences for building Reservoirs, Conductors, Pipes, and all other contingencies, shall be defrayed out of the funds of the Corporation, and the said Directors shall likewise exercise such other powers and authorities for the well regulating the affairs of the said Corporation, as shall be prescribed by the Bye-Laws and Regulations of the same.

VI. And be it further enacted, That not less than seven Directors shall constitute a Board for the transaction of business, of which the President shall always be one, excepting in cases of sickness or necessary absence, in a which case the Directors present, may choose one of their Board as Chairman to his stead: that the President shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before them, the President or Chairman shall have a casting vote.

VII. And be it further enacted, That no Director shall be entitled to any salary or emolument for his services; but that the Stockholders and Members of the said Corporation may make such compensation to the President, as to them shall appear reasonable and proper.

VIII. And be it further enacted, That no person shall be eligible as a Director unless such person is a Stockholder, and holding not less than twenty Shares of the Capital or Stock of the said Corporation.

IX. And be it further enacted, That the number of votes to which each Proprietor of Shares, in the said Corporation, holding one or more Shares in the said Company shall be entitled on every occasion, when, in conformity with the provisions of this Act, the votes of the Members of the said Corporation shall be given, shall be in the proportion following, that is to say; for one Share, and not more than two, one vote; for every two Shares, above two, and not exceeding ten, one vote, making five votes for ten Shares; for every four shares above ten, and not exceeding thirty, one vote, making ten votes for thirty Shares; for every six Shares above thirty and not exceeding sixty, one vote, making fifteen votes for sixty Shares; for every eight Shares above sixty, and not exceeding one hundred, one vote, making twenty votes for one hundred Shares; and for every ten Shares, above one hundred Shares, and not exceeding one hundred and fifty, one vote, making twenty-five votes for one hundred and fifty Shares, but no person or persons, copartnership, body politic, or corporate, being a Member or Members of the said Company, shall be entitled to a greater number than twenty-five votes.

X. And be it further enacted, That all Stockholders resident within this Province or elsewhere, may vote by proxy, provided such Proxy be a Stockholder, and do produce sufficient authority from his constituent or constituents so to act.

XI. And be it further enacted, That no Member or Corporate body, during the first six months, to be accounted from and after the passing of this Act, shall be entitled to hold or subscribe for more than fifty Shares of the said Capital or Stock, except the Corporation of the City of Saint John, who shall be allowed to take up the whole or any part thereof, if demanded within one calendar month after the passing of this Act, and no person or persons body politic, or corporate, shall until the expiration of one calendar month from the passing of this Act, be allowed to take or subscribe for any Shares of the said Capital or Stock, unless the said Corporation of the said City of St. John, shall have sooner taken up the number of Shares intended to be taken by the same Corporation or declared its option not to take any.

XII. And be it further enacted, That the Directors be, and they are hereby authorized to fill up any vacancy that shall be occasioned in the Board, by the death, resignation, or absence from the Province for three months, of any of its members; but that in the case of the removal of the Director by the Stockholders for misconduct or mal-administration, his place shall be filled up by the said Stockholders, and the person so chosen by the Directors or the Stockholders, shall serve until the next succeeding annual meeting of the Stockholders.

XIII. And be it further enacted, That the Shares of the Capital or Stock, shall be assignable and transferable according to the Rule and Regulations, that may be established in that behalf; but no assignment or transfer, shall be valid or effectual, unless such assignment or transfer, shall be entered and registered in a Book to be kept by the Directors for that purpose nor until such person or persons so making the same, shall previously discharge all debts actually due and payable by him to the said Corporation; that in no case shall any fractional part of a Share, or other than a complete Share or Shares be assignable or transferable, that whenever any Stockholder shall transfer in manner aforesaid, all his Stock or Shares in the said Company, to any other person or persons whatever, such Stockholder shall cease to be a member of the said Corporation.

XIV. And be it further enacted, That the Directors shall make half yearly, or yearly dividends, as may to them appear most proper, of all the profits, rents, premiums and interest of the said Corporation, payable at such time and place as the Directors shall appoint, of which they shall give thirty days previous notice in two of the Newspapers published in the City of Saint John.

XV. And be it further enacted, That the said Corporation shall have full power and authority to draw Water from, erect Reservoirs on, and to carry Pipes or Conductors through (when such shall be deemed absolutely necessary for the conveyance of the Water to the City, by the said Corporation,) the private property of individuals, whose Lands may lie at the source or in the line, the said Corporation shall think it expedient to convey the Water from, or through which it may be necessary to carry such Pipes or Conductors, or erect such Reservoirs. Provided always, that no such Water be drawn, Reservoirs erected, or Pipes or Conductors carried from, upon, or through the private property of any person without a reasonable and proper compensation being allowed and paid for the use and convenience of the same, and for any damage sustained by the operations of the said Corporation, to be agreed upon by the said Corporation, and the respective owners of such private property; and in case of disagreement between the said Corporation, and the said owners or any of them, then such compensation shall be determined by three Arbitrators, one to be chosen by the said Corporation, and one by the owner or owners of the private property in question, which two Arbitrators so chosen shall choose the third Arbitrator; and in case of their not agreeing in such choice within ten days after their appointment, then and in such case it shall and may be lawful for the Lieutenant-Governor or Commander-in-Chief for the time being, upon application of the said Corporation to appoint the third Arbitrator, and the award of the said Arbitrators or any two of them, shall be final and condusive in the matters referred to them; and in case any of the said owners of such private property, shall decline making any such agreement or appointing such Arbitrator, then, and in every such case the said Corporation may make application to the Supreme Court of this Province, stating the grounds of such application, and such Court is hereby empowered and required from time to time, upon such application, to issue a Writ or Warrant directed to the Sheriff of the City and County of Saint John, or in case of his being a party interested, then to the Coroner of the said City and County; and in case of the said Sheriff and Coroner being both interested, then to some person or persons who may be disinterested, commanding such Sheriff, Coroner, person or persons, as the case may be, to summon and impanel a Jury of twelve Freeholders within the said City and County, who may be altogether disinterested which Jury upon their oaths (all which oaths, as well as the oaths to be taken by any person or persons who shall be called upon to give evidence, the officer or person or

persons summoning such Jury, is hereby empowered to administer) inquire of, assess and ascertain the distinct sum or sums of money, or annual rent, to be paid for the use and convenience of such private property, or the indemnification to be made for the damage that may or shall be sustained as aforesaid; and the inquisition, award or verdict of such Jury, shall be returned and filed in the office of the Clerk of the Pleas in the Supreme Court, and shall be final and conclusive between the parties, and the costs and expenses of these proceedings, to be taxed and allowed by the Supreme Court, shall be borne by the said Corporation.

XVI. And be it further enacted, That if shall and may be lawful for the said Company, at a proper and convenient depth under the surface of each and every of the Roads and Streets, leading into and through the said City of Saint John and its vicinity to lay down, set and place such, and so many Pipes, Leaders and Conduits for the said Water, as they shall find to be necessary for conveying it to any or every dwelling house in the said City or its vicinity, and from time to time, as often as the said Company shall think proper, to lay down such Pipes, Leaders and Conduits, or shall have occasion to alter, amend or repair the same; it shall also be lawful for the said Company, to break up and open any part whatsoever of the said Roads and Streets, or of the covering, pavement or side walks thereof, and the same to keep open and uncovered during the time necessary for their said purposes. Provided always, that before the said Company shall break up or open any such road or Street they shall give previous notice of their intention so to do, to the Mayor, Aldermen and Commonalty of the said City, and shall receive their permission in writing therefor, and not otherwise. And provided also, that the said Company shall and do at their own proper costs, and charges, and to the satisfaction of the said Mayor, Aldermen and Commonalty, and without unnecessary delay, repair and amend the said Roads and Streets, in every part where they shall be so broken up and opened as aforesaid, and restore the covering, pavement and side walks thereof respectively, to the condition in which they were before breaking up, or opening the same.

XVII. And be it further enacted, That if the said Company shall not repair the said Roads or Streets, or any of them so broken up, to the satisfaction of the said Mayor, Aldermen and Commonalty, it shall be lawful for the said Mayor, Aldermen and Commonalty, to cause the same to be repaired, and to sue for and recover the expense incurred therein from the said Company, in the Supreme Court of this Province, or in case the sum demanded shall not exceed five pounds, then before any Justice of the Peace for the said City and County, not being an Alderman of the said City; such Justice to proceed in the manner directed in the Act for the more easy and speedy recovery of small debts.

XVIII. And be it further enacted, That the said Company do and shall in every Street or Road through which the said Pipes shall be laid, make and provide proper vents and openings for supplying Water whenever Fires shall happen in the said City or the Vicinity thereof, and do and shall make such vents and openings in such places, and at such distances from each other as the Mayor, Aldermen and Commonalty of the said City in Common Council convened, shall from time to time direct and appoint, under penalty of forfeiting the privileges and immunities granted in and by this Act. Provided always, that the said Mayor, Aldermen and Commonalty, shall pay any additional expence that may be incurred by the making and maintaining of such vents, and openings for supplying Water in cases of Fire.

XIX. And be it further enacted, That in case the Mayor, Aldermen and Commonalty of the said City of Saint John shall take up and subscribe for the whole of the said Capital or Stock, within one calendar, month, after the passing of this Act, as provided for in the eleventh section of this Act, then and in such case the establishment of the said Corporation, by the name of "The Saint John Water Company," shall not take effect, and all the provisions hereinbefore contained relating to the establishment, constitution and regulation of the said Company, shall be void and of no effect: and then and in such case also the said Mayor, Aldermen and Commonalty of the City of Saint John, shall have and exercise all the powers, privileges and authorities, and be subject to all the regulations and provisions in the fifteenth, sixteenth, seventeenth and eighteenth sections of this Act mentioned and contained, so far as the same may be applicable to the said Mayor, Aldermen and Commonalty, and then and in such case, also it shall be the duty of the said Mayor, Aldermen and Commonalty, and they are hereby required forthwith to proceed to carry into effect the intention of this Act, by supplying the said City and its vicinity with Water in the manner herein contemplated.