

Laws of Her Majesty's Province of Newfoundland, passed in the year 1846.

9 Victoria – Chapter 8 (Session 1)

An Act for the Incorporation of the “St. John’s Water Company.” (Passed 28th April, 1846.)

Whereas much inconvenience has heretofore been occasioned to the inhabitants of the Town of St. John’s by the scarcity of Water therein; and the bringing into the said Town a sufficient supply of Fresh Water, would therefore be of great public utility. And whereas the several persons hereinafter named are desirous of being formed into a Company for the purpose of effecting such object, and to such end have prayed the assistance of the Legislature:

I. Be it therefore enacted, by the Governor, Council, and Assembly, in Legislative Session convened, That William Thomas, Robert Job, John Rent, Walter Grieve, Edward M. Archibald, Charles Fox Bennett, George T. Brooking, Peter McBride and Andrew Milroy, and all such other persons as may have associated with them for the purpose aforesaid, or may hereafter become Stockholders in the said Company, and their respective successors, executors, administrators, and assigns, shall be, and they are hereby, united into a Company for the purpose aforesaid; and shall be a Body Corporate and Politic, in Law, in Fact, and in Name, by the style and title of “The St. John’s Water Company;” and by that name shall have perpetual succession and a common seal, with power to alter the same; and shall and may be capable in Law to sue and be sued, implead and be impleaded, answer and be answered unto, in all Courts and places whatsoever; and shall and may purchase, hold, receive, enjoy, assign, and convey, Lands, Tenements, Goods, and Chattels, and do and execute all such other things, in and about the same, as may in that behalf be necessary; and also shall and may, from time to time and at all limes, have full power and authority to ordain, make and establish all such rules and bye-laws, and to do and perform all such other acts, deeds, matters and things, whatsoever, as may be necessary to the good government and the conduct of the business of the said Corporation, and as to them as such Body Politic or Corporate shall appertain to do: Provided always, that the Lands and Tenements of the said Corporation, to be holden by them as aforesaid, shall not exceed in yearly value the sum of Two Thousand Pounds; and, also, that such rules and bye-laws shall not be inconsistent with the true intent and meaning of this Act, nor repugnant to the Laws of this Colony; and Provided further, that it shall be incumbent on the said Corporation, as soon as conveniently may be after the commencement of their operations, to establish, in Water Street, Fire Plugs at no greater distance from each other than fifty yards, for the preservation of the said Town in case of Fire occurring therein, and at all times during the continuance of this Act, to keep the same in an effective state for the uses aforesaid.

II. And be it further enacted, That the said Company may raise and contribute among themselves, as the Stock of the said Company, a sum not exceeding in the whole Six Thousand Pounds, in Six Hundred Shares of Ten Pounds each; and such sum shall be paid by the Stockholders respectively at such times and in such manner as the Directors of the said Company may from time to time appoint, and shall be appropriate to the purpose of constructing, completing and maintaining the Water-works of the said Company, and for carrying into effect the purposes of this Act. Provided, that whenever the business of the said Company shall be thought to require a further and additional amount of Capital Stock, it shall and may be lawful for the said Stockholders, at any general or special meeting to be called for that

purpose, and of which due notice of not less than twenty days shall be first given in two of the Newspapers published in this Colony, of which the "Royal Gazette" shall be one, to increase the said Capital Stock by the further sum of Six Thousand Pounds, in shares of Ten Pounds each; and such additional Stock may be made and added, either in one gross amount and at one time, or at two or more distinct and separate times, and in such amounts as may be resolved and agreed upon at the said or at any subsequent meeting of Stockholders, to be called as aforesaid.

III. And be it further enacted. That so soon as Five Hundred Shares shall be subscribed of the said Capital Stock, the first general meeting of the Stockholders shall be holden at such time and place as the majority of Stockholders may appoint, fourteen days notice of the time and place of such meeting being given in two of the public Newspapers, of which the "Royal Gazette" shall be one, and such meeting shall appoint seven persons, being each a proprietor of ten or more shares in the said Company, to be Directors thereof, and shall make, ordain and establish such Rules and Bye-laws for the good conduct and management of the affairs of the said Company, and the carrying into effect the purposes of this Act, as may be deemed necessary.

IV. And be it further enacted, That the said Directors so to be appointed as aforesaid, shall commence the operations of the said Company and shall continue in office until the first Tuesday in May, A.D. 1847, and that on the said first Tuesday in May, and on the first Tuesday in May in each succeeding year, a general meeting of the Stockholders of the said Company shall, upon due notice as aforesaid, be holden; at which meeting the Directors for the past year shall exhibit a full and unreserved statement of the affairs of the said Corporation; and such meeting shall thereupon proceed to Audit the Accounts so exhibited, to declare a dividend thereon, to elect Directors for the then ensuing year, to amend, if necessary, or to annul, any Rule or Byelaw of the said Company, and to transact such other business as may then be brought before them.

V. And be it further enacted, That of the said Board of Directors three shall be a quorum for the transaction of business; and that as soon after their election as may be, such Directors shall choose a President and Vice-President; and that in case any vacancy shall, previously to any such annual meeting as aforesaid, arise by the death, resignation, or absence from the Colony, of any member of the said Board, the remaining Directors shall be and they are hereby authorized to fill up such vacancy from among the Stockholders of the said Company; and the person appointed to such vacancy shall continue in office until the next annual meeting of Stockholders.

VI. And be it further enacted, That the Directors for the time being shall have power to appoint such Officers, Clerks and Servants, as they shall think necessary for executing the business of the said Corporation, and shall allow them such compensation for their respective services as they may deem reasonable and proper; all which, together with the expense of all other contingencies, shall be defrayed from 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.

VII. And be it further enacted, That on every occasion when, in conformity with the provisions of this Act, the votes of the Stockholders are to be given, each Stockholder shall be entitled to one vote for

every share; and that in any case where, upon any question being under the consideration of the Board of Directors, the number of votes for and against such question shall be equal, the President, or in his absence the Vice-President, shall have a casting vote; Provided always, that no Stockholder of the said Corporation shall be entitled to more than twenty votes.

VIII. And be it further enacted, That any Stockholder may, on any such occasion as aforesaid, vote by Proxy; Provided such Proxy be himself a Stockholder, and be constituted by some instrument in writing.

IX. And be it further enacted, That all and every the shares in the Capital Stock of the said Company, and all profits and advantages thereof, shall be deemed and be personal estate, and as such transmissible; subject to such rules, nevertheless, as may be in that behalf established; Provided always that no assignment or transfer of any Share shall be valid or effectual until the same shall be entered and registered in a book to be kept for that purpose; and provided also that whenever any Stockholder shall have assigned or transferred all his stock or shares in the said Company, such Stockholder shall cease to be a member of the Corporation.

X. And be it further enacted, That the shares in the Capital Stock of the said Company shall be liable to Attachment or Execution in like manner as other personal property now is, and that the process or warrant in such cases respectively shall be served on the President or Vice-President of the Board of Directors; and such service shall bind the shares of any Stockholder against whom any such process may have issued, to the extent of such Attachment or Execution, and that for the purpose of ascertaining the number of shares held by such Stockholder, the President, Vice-President, or any Director or Officer of the said Company, may be examined, in like manner as any third person, having in his or her possession any Monies, Goods, Debts or Effects of any Defendant, may now be examined; and upon sale by the Sheriff of any such Shares in pursuance of or under any such Attachment or Execution, the Clerk of the said Company shall, upon production of a bill of sale from the Sheriff, transfer the number of Shares by him sold under such Attachment or Execution to the purchaser or purchasers thereof, and such transfer shall be valid and effectual, to all intents and purposes whatsoever; Provided that when such Attachment shall have been made under a Writ of Execution, the sale by the Sheriff shall be made within thirty days after the Warrant shall have been left with the President or Vice-President; And when the Attachment shall have been made under mesne process, the sale shall be made within thirty days after such time as the Plaintiff could have signed judgment in the cause in which such Attachment on mesne process shall have issued.

XI. And be it further enacted, That the holders of Stock in the said Corporation shall be chargeable in their private and individual capacities for the payment of all debts due at any time from the said Corporation, in proportion to the Stock they respectively hold; Provided, however, that in no case shall anyone Stockholder be liable to pay a sum exceeding the amount of Stock then actually held by him; Provided, nevertheless that nothing previously herein contained shall be construed to exempt the Joint Stock of the said Corporation, from being liable for and chargeable with the Debts and Engagements of the same.

XII. And be it further enacted, That on any dissolution of the said Corporation, immediate and effectual measures shall be taken by the Directors then in office, for closing all the concerns of the said Corporation, and for dividing the capital and profits thereof which may remain, after the discharge of all existing liabilities, among the Stockholders, in proportion to their respective interests; Provided, that such Stock holders shall be chargeable, in their private and individual capacities, for the payment and discharge of all then existing debts and liabilities of the said Corporation, in proportion to the Stock they shall then respectively hold; subject, however, to the Proviso mentioned in the preceding section of this Act; Provided, however, that such liability shall continue only for two years from and after the time of such dissolution.

XIII. And be it further enacted, That any number of Stock-holders not less than ten, who together shall be proprietors of one hundred shares, shall have power at any time to call a general meeting of Stockholders for purposes relating to the business of the said Corporation, giving at least ten days previous notice in two of the Newspapers published in the Colony, of which the "Royal Gazette" shall be one, and specifying in such notice the time and place of such meeting, and the objects thereof; and the Board of Directors, or any four of them, shall have the like power at any time, upon observing the like formalities, to call a general meeting as aforesaid.

XIV. And be it further enacted, That it shall be lawful for the said Company and they are hereby empowered from time to time to break up, dig and trench, so much and so many of the streets, squares, and public places, of the said Town of St. John's, and of the roads leading thereto, as may be necessary for laying, taking up, or having access to, the mains and pipes for the conveyance of the water of the said Company doing no unnecessary damage in the premises, and taking care, as far as may be, to preserve a free and uninterrupted passage through the said streets, roads, squares and public places, while such works are in progress; placing guards or fences, with lamps during the night, and taking such other precautions as may be necessary for the prevention of accidents by any openings, and finishing and replacing the said streets, squares, roads and public places, in as good condition as before the commencement of the works, without any unnecessary delay; and that in case of any neglect of any of the duties herein prescribed, the said Corporation shall be subject to pay a fine of Ten Pounds, over and above such damages as may be recovered against the said Corporation in any Civil Action.

XV. And be it further enacted, That it shall and may be lawful for the said Company, upon payment or tender of a reasonable compensation to any party whose interests may be affected in this behalf, to enter upon, take possession of, and occupy, for the construction of reservoirs or other works, or the laying of pipes or mains, any lands the property of any private person or persons, situated between the said Town, and the sources whence the water of the said Company may be derived; and that from and after such payment or tender, as aforesaid, the land so taken possession of or occupied, shall become the property of the said Corporation.

XVI. And be it further enacted, That if any person or persons to whom any such payment or tender of compensation may have been made, as aforesaid, shall deem the amount thereof insufficient, it shall and may be lawful for such person or persons to prefer and prosecute, within the period of Three Years from the time of such entry, possession, or occupation, aforesaid, but not afterwards, an Action of

Trespass or on- the Case against the said Corporation or its servants; in which action evidence may be given of the value of the land taken possession of, and of the sum so paid or tendered, as aforesaid, and the Jury empannelled for the trial of the same shall thereupon give such verdict as the merits of the case may require.

XVII. And be it further enacted, That in any action that may be brought against the said Corporation, or any of its servants, for anything done in pursuance of this Act, it shall be lawful for the defendant or defendants therein to pay into Court such sum of money as he or they may deem fit, and that thereupon the like proceedings shall be had in such action as in other cases wherein money may now by law be paid into Court.

XVIII. And be it further enacted, That where there are buildings within the said Town, different parts whereof shall belong to different proprietors, or shall be in possession of different tenants, or lessees, the said Corporation shall have power to carry pipes to any part of any building so situated, passing over or through the property of One or more proprietors or in possession of one or more tenants, to convey the water to that of another or in possession of another, and also to break up and uplift all passages Which may be a common way to neighbouring proprietors or tenants, and to dig or cut trenches therein for the purpose of laying down pipes or taking up and repairing the same; the said Corporation doing as little damage as may be in the execution of the powers granted by this Act, and making satisfaction to the owners or proprietors of buildings or other property, or to the public, for all the damage to be by them sustained, in or by the execution of all or any of the said powers.

XIX. And be it further enacted, That if any person or persons shall lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the said Corporation, or in any way obtain or use its water without the consent of the Board of Directors or their Officers appointed to grant such consent, or shall increase the supply of water agreed for with the said Corporation, or shall wrongfully waste the same, every such person shall forfeit and pay to the said Corporation the sum of Ten Pounds for every such offence, over and above the value of the water which may have been so wrongfully used, consumed or wasted; and the same, together with costs of suite in that behalf incurred, may be recovered in any civil action to be brought by the said Corporation in any of Her Majesty's Courts of Record. Provided always, that nothing herein contained shall be construed to restrain the use of such water on the occasion of any fire occurring in the said town of St. John's, by means of any fire plugs to be established as aforesaid.

XX. And be it further enacted, That if any person or persons shall wilfully or maliciously break up, injure, put out of order, damage or destroy, any of the works, or any pipe, main, or other apparatus or appurtenance of the said Corporation, or any material used or provided for the same; or shall in any wise wilfully do any other injury or damage, for the purpose of obstructing, hindering, or embarrassing, the construction, Completion, maintaining, or repairing of the said works, or of the apparatus or appurtenances thereof; every such person or persons shall, on conviction therefor, to be had in a summary manner before two or more Justices of the Peace, forfeit, for every such offence, any sum not exceeding Five Pounds, together with costs of suit, and shall also make full satisfaction for the damage so by him, her, or them, occasioned; and it shall be lawful for any person or persons who shall see the offence committed, to apprehend (without warrant,) and for any other person to assist in

apprehending, the offender or offenders, and to convey him, her, or them, to any Constable, who is to keep him, her, or them, in safe custody, and with all reasonable despatch to convey him, her, or them, before any Justice of the Peace, in order to his, her, or their conviction for such offence; and in case any such offender or offenders shall not, on conviction, pay the said forfeiture, satisfaction and costs, such two or more Justices are hereby required to commit such offender or offenders to the Common Gaol, for any period not exceeding three Calendar months, unless such forfeiture, satisfaction, and costs, shall be sooner paid.

XXI. And be it further enacted, That all penalties imposed by this Act, for recovery of which no method is hereinbefore prescribed, maybe sued for and recovered, together with costs of suit, by an Action of Debt, to be brought in any of Her Majesty's Courts of Record, or in a summary manner before any two or more of Her Majesty's Justices of Peace, and by distress and sale of the offender's Goods and Chattels; and no conviction which may be had under this Act shall be quashed for want of form, provided sufficient appear on the face thereof to warrant such conviction.

XXII. And be it further enacted, That it shall not be lawful for the said Company to divide more than Ten Pounds per Cent, per Annum, as a net profit on the paid-up Capital of the said Company, but that all net profits over and above such dividend shall be appropriated, under the management and direction of the said Company, towards establishing additional Fire-Plugs, and towards providing Water, free of charge, for the poorer classes of the inhabitants of St. John's.

XXIII. And be it further enacted, That it shall be incumbent on the said Company to expend, without any charge for superintendence, all such sums of Money as may hereafter be granted by the Legislature towards the establishment, for the use of such inhabitants as aforesaid, of Pumps and Fountains to be connected with the Mains and Pipes of the Company, and to afford a constant supply of Water to the same gratis. Provided always, that such supply shall not reduce the net profits of the said Company below the Dividend of Ten per Cent, aforesaid; And provided also, that all works which may be erected in connection with the works of the said Company, shall be under its exclusive control and management.

XXIV. And be it further enacted, That the said Company shall annually transmit to His Excellency the Governor, to be laid before the Legislature, a detailed statement of the affairs and state of Accounts of the said Company.

XXV. And be it further enacted, That this Act shall be deemed and taken to be a Public Act, and shall be judicially taken notice of and have the effect of a Public Act without being specially pleaded.

XXVI. And be it further enacted, That this Act shall continue and be in force for the period of Fifty Years, and no longer.