

Laws of Her Majesty's Province of Newfoundland, passed in the year 1863.

26 Victoria – Chapter 5

An Act to Incorporate the Harbor Grace Water Company. (Passed 25th March, 1863)

Whereas it is expedient to Provide for a sufficient Supply of Water to the Town of Harbor Grace, by the Incorporation of a Company formed for that purpose upon the conditions hereinafter mentioned:

Be it therefore Enacted by the Governor, Legislative Council and Assembly, in Legislative Session convened, as follows:

I. John Munn, William Donnelly, William Henry Ridley, Arthur Thomey, John Hayward, Henry Tyte Moore, Robert Walsh, John J. Roddick, Nathaniel Davis, Daniel Green, Patrick Strapp, James Crane, George Brown, Captain John Munn, George Makinson, and George Rutherford, and all such other Persons as may have associated with them for the purposes 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 purposes aforesaid, and shall be a Body Corporate and Politic, in Law, in Fact, and in Name, by the style of “ The Harbor Grace Water Company,” and by that name shall have perpetual succession and a common Seal, with power to alter the same, and shall be capable in Law of Suing and being Sued, Impleading and being Impleaded, in all Courts and places whatsoever, and shall and may Purchase, Hold, Receive, and Assign, Lands and Chattels, and do all such matters and things as may be necessary for the business of the said Corporation, and as to them as such Body Politic and Corporate shall pertain to do.

II. The Capital Stock of the said Company Shall consist, of Ten Thousand Pounds Currency, being in Two Thousand Shares of Five Pounds Currency each, payable at such times as the Directors of said Company for the time being may appoint; and such sum, or so much thereof as may be necessary, shall be applied to the purposes of Constructing, Completing, and Maintaining the Water Works of the said Company, and for carrying into effect, the purposes of this Act: Provided, that if the Instalments payable by any Stockholder shall not be paid at the time appointed by the Directors, or within ten days thereafter, the amount paid up by such Defaulter shall be Forfeited, and his Share in the said Company sold on his account for the highest price that can be had for the same.

III. If found necessary for the purposes of this Act, it shall be competent for the Company, at a General Meeting of Stockholders, to be called in manner hereinafter directed, to extend their Capital Stock to the amount of Twelve Thousand Pounds Currency in the whole, or of such proportion thereof as may be requisite; and such further Stock shall be distributed in Shares of the like amount, and be payable as before directed, and shall have the like advantages in all respects, as are hereinbefore provided with respect to the Stock first subscribed, but such extension shall not take place without the assent of the Governor in Council of the Colony.

IV. All Certificates of Stocks issued by the said Company shall be signed by the President and countersigned by the Secretary of the said Company, and certified by the Colonial Secretary; and the holders thereof shall, on the production thereof to the President of the said Company, be entitled to

receive, out of the funds at the disposal of the said Company, interest upon the amount of such Stock, at the rate of Five per cent, per annum; and in default of payment by the said Company, the said Holders, upon production thereof at the Office of the Receiver General, shall be entitled to receive from the funds of the Colony the said interest, which interest, whether paid by the Company or Colony, as aforesaid, Shall be paid on the first days of July and January in each year.

V. As soon as the necessary amount of Capital shall be subscribed, the first General Meeting of Stockholders shall be held at Harbor Grace, at a time and place to be appointed by the Provisional Committee, upon Fourteen Days' notice in at least two Newspapers, of which the Royal Gazette shall be one, and such Meeting shall appoint Six Persons, being each a proprietor of at least Thirty Shares, to be Directors of the Company for the then ensuing year; and upon the first Monday of July, in each succeeding year, during the existence of the Company, a like General Meeting for the like purposes, and upon the like notice, shall be held at the place aforesaid.

VI. The Directors may at any time, of their own accord, or upon the requisition of the holders of Five Hundred Shares, call a General Meeting of the Stockholders for any special purpose, notice being given in manner aforesaid.

VII. At all General and Annual Meetings, the Stockholders shall vote by Ballot, the holders of Five Shares be entitled to One vote, and so on for every Five Shares: holders of less than Five Shares shall not be entitled to vote at such Annual and General Meetings. Rules and Bye-laws may be passed for the government of the Company and the management of its business, and absent Shareholders may vote by Agents duly constituted for such purpose by written authority: Provided that such Agent shall be a Shareholder in the said Company.

VIII. Of the Directors to be Elected as aforesaid. Four shall form a Quorum; they shall elect a President from amongst their number, and in case a vacancy shall arise on the Board by the Death, Resignation, or Absence from the Colony, of any Member, the remaining Directors shall fill up the vacancy from amongst the Stockholders, the Person so appointed holding office until the next Annual Meeting. At every Annual Meeting the Directors shall lay before the Meeting a full and unreserved Statement of the affairs of the Company; they shall have power to appoint such Officers and at such Salaries as they may consider necessary for the general management of the Company's affairs and business, but such Salaries shall, before being finally adopted by the Company, receive the approval of the Governor in Council.

IX. The Shares in the Stock of the said Company Shall be Assignable by Endorsement, but under and subject to such Rules as may be provided in that behalf; and no Assignment of any Share shall be valid unless the Assignor shall have paid off all his liabilities actually due to the Company, and until such Assignment shall be entered in a book to be kept for that purpose.

X. The Shares of any Stockholders in the said Company shall be liable to Attachment and Execution, by service of a Warrant of Attachment on the President or Secretary of the Company, and such Service shall bind the Shares of such Stockholder for all beyond the amount of his liabilities actually due to the Company; and upon the production of a Bill of Sale from the Sheriff of such Shares, or upon an Order of

Court to such effect, the Directors shall register a transfer of such Shares to Purchasers thereof, by virtue of the provisions of this Act.

XI. It shall be lawful for the Company to Break, Dig and Trench the Streets, Squares, Public Places, and Lands, in and near the Town of Harbor Grace, as may be necessary, observing all proper precautions for the safety and convenience of the public; and for the purposes of this Act, from time to time, after compensation made or tendered to the Owner in that behalf, to Enter upon, Excavate, Trench, Possess and Hold, as the Property of the Company, the Lands of Private Parties in or near the said Town.

XII. The Costs of Repairs of Service Pipes shall be borne by the Consumers, by whom such Pipes shall be used. And it shall be lawful for the said Company, with or without the consent of the Occupier or Proprietor, to introduce Branch or Service Pipes into any Building subject to the Rate or Assessment.

XIII. Should any Person whose Land shall have been so Entered upon, Excavated or Taken as aforesaid, deem the Amount tendered to him by the Company insufficient compensation for any injury sustained by him by any act of the Company, or their Agents, or their Servants, or for any portion of his Land, Tenements or Premises, appropriated or used by the Company, it shall be competent for such Person to appoint one Arbitrator, and the said Company another, and such Two Arbitrators shall appoint a Third, and the Award of any Two of them, signed by them, after hearing both parties and their Witnesses, as to such Compensation, shall be final and binding. Should either party neglect or refuse, upon being required by the other to appoint an Arbitrator within Ten Days after being so required, or should the Two Arbitrators, when so appointed, not agree to the appointment of a Third, within Ten Days after their appointment, it shall be lawful for the Supreme Court of this Island, or any Judge thereof, upon the application of either Party, to appoint an Arbitrator for the Party refusing, omitting, or neglecting to make such appointment, and that the Arbitrator, when so appointed, shall have the same power in all respects as if appointed by either Party, or the said Two Arbitrators.

XIV. If any Person shall in any way obtain or use the Water of the said Company, without the consent of its proper Officers, or shall wrongfully Waste the same, such Offender shall Forfeit a Sum not exceeding Ten Pounds, to be recovered with Costs in an Action at the suit of the Company in any Court of Record: Provided that this Section shall not extend to Parties taking Water from the Public Pumps, hereinafter mentioned, nor to any use of the said Water in case of a Fire occurring in the said Town.

XV. If any Person shall wilfully or maliciously Hinder or Interrupt, or cause or procure to be Hindered or Interrupted, the Contractors, Servants, Agents, or Workmen, of the Company, in the exercise of any of the Powers and Authorities in this Act contained or if any Person shall wilfully and maliciously put out of order, injure or destroy any Pipe, Hydrant, or any other Work or Material of the Company, such Offender, on conviction in a summary manner before a Justice of the Peace, shall Forfeit a Sum not exceeding Five Pounds, with Costs of Suit, and shall pay upon the Order of such Justice, a sum equal to the amount of Damage so occasioned by him, and in default of such Payment shall be Imprisoned for a period not exceeding Three Calendar Months; and it shall be lawful for any Person who may witness the commission of such Offence, to Apprehend, without Warrant, and for any other Person to assist in the Apprehending, such Offender, and to convey him before a Justice, to be dealt with in manner aforesaid.

XVI. Copies of the Annual Statement of the Company's Affairs shall be transmitted to the Colonial Secretary within Twenty Days after the Annual Meeting. The Government shall have power at all times to inspect the Books of the said Company, and all the net Profits of the Company, after payment of Interest upon the Stock, and all Incidental Expenses, shall, within Thirty Days after each Annual Meeting, be paid to the Receiver General, to be applied in Repairs of the said Water Works, and the Formation of a Sinking Fund for the Purchase of the Capita Stock hereinafter provided.

XVII. If at any time after Twenty Years from the passing of this Act, it shall be deemed advisable by the Governor in Council, with the assent of the Legislature, that the Water Works and other Property of the said Company shall be transferred to and vested in the Government of this Colony it shall be lawful for the Governor to cause a written notice to be given to the said Company, which shall be served upon the President, Secretary, Director or Manager of the said Company in this Colony, which notice shall state that the Government has decided upon becoming the holder of the said Water Works and other Property, and is prepared to pay the Shareholders in the said Company, upon production of their Certificates as aforesaid, the amount of Stock they may hold in the said Company, as shown by the said Certificates, together with Six per cent Interest from the time of the last payment of Interest upon the amount of such Stock; and after the expiration of One Year from the time of the service of such notice, and the payment or tender of payment of Principal and Interest to the Stockholders as aforesaid, all and singular the said Water Works, and other Property of the said Company, shall become the Property of Her Majesty, for the benefit and public use of the Colony, and shall be thenceforth held free and discharged from all claims of the said Company, or Stockholders thereof, or any person whomsoever; and the Governor shall draw Warrants on the Receiver, General of this Colony, for the payment to the several Stockholders in the said Company of the Principal and Interest aforesaid.

XVIII. It shall be obligatory upon the said Company to cause a sufficient supply of pure and wholesome Water to be conveyed in Pipes and Mains through the several Streets in the said Town, as follows, namely, from the point where the Pipes from Bannerman Lake meet the Main Road near Ship-head to the foot of Carbonear Road, through Water Street, Noad Street, Victoria Street, Bannerman Street, LeMarchant Street, and Cochrane Street and from the latter Street to Carbonear Road through Harvey Street, and to erect in such places, within the said limits as the Governor in Council may direct, Fountains for the supply of Water to the Poor, and to establish Hydrants throughout the said Town as the Governor in Council may think necessary; and to extend the said Supply of Water in Pipes or Mains throughout such other Streets and within such other limits, as the Governor in Council shall at any time direct.

XIX. It shall be lawful for the Directors of the said Company, subject in all cases to the approval and control of the Governor in Council, from time to time, to fix and establish Water Rates and Assessments under this Act, at such amounts as may be necessary for the purposes of this Act, all which Rates and Assessments shall be levied, collected and paid in advance, half-yearly; provided always that notice of any change in the Rate or Assessments aforesaid, shall be given by publication in the Royal Gazette and that the Minute of Council confirming the same, shall be laid before both Branches of the Legislature at the next ensuing Session.

XX. As soon as the Water Works shall be in operation, the Owners and Occupiers of all Houses and other Buildings, along which Pipes shall have been laid, and within Two Hundred Yards of any such Pipes, shall pay semi-annually, in advance in manner herein provided, the Rates and Assessments imposed by the Nineteenth Section of this Act. Provided that Government Buildings, Churches, Public School Houses, and Buildings belonging to Charitable Bodies, shall be exempt from this Assessment: Provided also, that in establishing any Water Rate regard shall be had not only to the Rent Value of the Premises supplied with Water, but, also to the quantity of Water which may be supplied, whether for Trading, Manufacturing, Shipping, or other purposes.

XXI. The term "Owners" shall, for the purposes of this Act, mean all Persons who, at the time of such Assessment, have any Insurable Interest, either present or in reversion, in the Houses and other Buildings aforesaid; the Assessment upon such present Interest shall be estimated by the Yearly Rent Value of such Houses and other, Buildings, or the Profit Rent thereof, as the case may be; and the Assessment upon Reversionary Interests shall be estimated on the appraised; Annual interest of the Lessor in the Buildings for this unexpired term; Provided, that nothing in this Act contained shall affect Mortgages, but in case of Mortgaged Property coming within the operation of this Act, the Assessment chargeable thereon shall be paid by the Mortgagor.

XXII. For the purpose of ascertaining the amount of such Assessment, and of collecting and recovering the; Same, it shall be lawful for the Governor in Council to appoint one or more Appraisers, who shall be sworn before a Justice of the Peace faithfully to discharge the duties of their office; such Appraisers shall annually appraise all such Houses and other Buildings as aforesaid, and shall deposit the Books of such Appraisalment, when completed, with the Clerk of the Peace for Harbor Grace.

XXIII. Such Return Shall be open to the examination of all Parties interested therein; and after the expiration of One Calendar Month after it shall have been so deposited, the Court of Sessions for the District of Harbor Grace shall at certain times, within One Month thence following, to be, notified by advertisements published in a Public Newspaper in St. John's and Harbor Grace, hold a Court for the Revision of such Return. It shall be competent for any Person named in such Return, by a notice in writing, to be filed in the Office of the said Court, and served on the, said Appraisers within the Month first mentioned, to object to the amount for which his or her Property or Interest therein may have been Appraised, which objection the said Court shall hear and determine, and amend or confirm the Return accordingly; and after the expiration of the times fixed for the holding of such Court, the said Return Shall be final and binding on all Parties for the then ensuing year.

XXIV. The Secretary to be appointed to the Company shall act as Collector, and shall give sufficient security faithfully to discharge the duties of his office as such Collector. The Collector to be appointed as aforesaid, shall, as soon as possible after such Appraisalment shall have been completed, collect from the Parties respectively liable in that behalf, their contributions towards such Assessment; and in case any person so liable shall neglect or refuse to pay such contribution, the same may be recovered, with costs, in a summary manner, by a Suit in the Court of Sessions for the District of Harbor Grace, to be brought in the name of the said Secretary: Provided, that service of process upon the Agent of any absent or non-resident Defendant shall be service upon the Principal: Provided, also, that in any such

action it shall be deemed good service of process upon the Defendant, if the same be left at the residence of such Defendant.

XXV. The President, Appraisers, Secretary, and other Officers, to be appointed under the provisions of this Act, shall be paid, out of the funds of the said Company, such sums as the Governor in Council shall determine.

XXVI. Occupiers of Houses or Tenements of a less annual value than Seven Pounds Currency, shall be exempt from the payment of the Water Rates.

XXVII. It shall be lawful for the Governor in Council to appoint a Director of the said Company, to hold office during pleasure of the Government, in addition to the Directors chosen by the Shareholders thereof, and no proceeding of the Board of Directors shall be of any effect or validity against which such Government Director, in his place at the Board of Directors, shall record his vote, until such proceeding shall be submitted to and approved of by the Governor in Council.