

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SIXTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE.

1891.

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1891.

PRIVATE AND SPECIAL LAWS

OF THE

STATE OF MAINE.

1891.

plaint is made under a statute of this state for flowing lands, occasioned by raising a head of water for the working of mills.

SECT. 3. The said corporation may demand and receive a toll for the passage of logs over or through their said dams and improvements, of fifty cents per thousand feet, board measure, woods scale. And said corporation shall have a lien upon all logs and lumber which may pass over any of its dams and improvements, for the payment of said tolls; but the logs of each particular mark shall be holden only for the tolls of such mark; and unless such toll is paid within twenty days after such logs or lumber or a major part of the same, shall arrive at the Penobscot boom, or place of manufacture or destination, said corporation may seize said logs and lumber and sell at public auction so many and so much thereof as shall be necessary to pay such tolls, costs and charges. Notice of the time and place of such sale shall be given ten days before such sale, in some newspaper printed in Bangor.

Tolls.

SECT. 4. When said corporation shall have received from tolls its outlay on dams and improvements, and the repairs made up to that time, and eight per cent interest, then the tolls shall be reduced, pro rata, to a sum sufficient to keep the works in repair.

When tolls shall be reduced.

SECT. 5. This act shall take effect when approved.

Approved February 18, 1891.

Chapter 82.

An Act to supply the City of Auburn with pure water.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. The city of Auburn, or the trustee hereinafter provided for, or any corporation of which either may obtain control, as provided in section two, either directly or through ownership of stock, are authorized and empowered to take water from the Androscoggin river, Wilson pond, Taylor pond, and any other pond or spring in the city of Auburn, sufficient for domestic purposes in said city, including a sufficient quantity for extinguishing fires and the supply of hotels, livery stables and laundries, and for sprinkling streets within

City of Auburn, authorized to take water.

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said city; and for the purposes aforesaid, to take and convey through the city of Auburn, and to all parts thereof, any of the waters aforesaid, by aqueduct or pipe sunk to any depth desirable for said purposes.

May make contract for system of water works.

SECT. 2. The city of Auburn, or said trustee, may make any necessary contract with any person or corporation for acquiring the ownership of a system of water works within said city, or the ownership of the whole or any part of the stock of any aqueduct corporation owning a system of water works in said city, whereby the city, or said trustee, may be entitled to purchase the whole at one time, or to purchase the same in installments through a period of years.

May take and hold land.

SECT. 3. For the purpose of carrying out the provisions of this act, said city, or said trustee, or any corporation of which either may obtain control as provided in section two, either directly or through ownership of stock, shall have power, and are hereby authorized to take and hold, by purchase or otherwise, any lands or real estate necessary for laying and maintaining pipes, aqueducts, locks, gates, dams, hydrants and reservoirs, for taking, conducting, holding, discharging, and distributing water, and for roadways to be used as approaches thereto, doing no unnecessary damage. They may enter upon said lands to make surveys and locations, and shall file in the registry of deeds, in the county of Androscoggin, plans of such locations and land, showing the property taken, and within thirty days thereafter, publish such notice of such taking and filing in some newspaper in said county, such publication to be continued three weeks successively; and such filing in the registry of deeds shall be in lieu of any other filing now required by law. Said city, or said trustee, may permit the use, for said purposes, of any lands so taken by it, by any person or corporation, with which it has made such a contract as is described in section two, whereby the city may be entitled to acquire the ownership of any aqueduct in said city.

—shall file in registry of deeds plans of location.

Damages, how assessed, in case of disagreement.

SECT. 4. Should the city, or said trustee, or such corporation, and the owner of such land be unable to agree upon the damages to be paid for such location, taking and holding, the land owner, or the city, or trustee, or such corporation, may within twelve months after the filing of said plans and location, apply to the commissioners of the county of Androscoggin, who shall cause such damages to be assessed in the

same manner and under the same conditions, restrictions, limitations and rights of appeal, as are by law prescribed in the case of damages for the laying out of highways, so far as such law is consistent with the provisions of this act.

SECT. 5. The city of Auburn, or said trustee, may purchase and own stock in any aqueduct company organized, or to be organized, to supply the inhabitants of said city of Auburn with pure water.

May purchase and hold stock in any aqueduct company.

SECT. 6. The city of Auburn, or said trustee, or any corporation of which either may obtain control, as provided in section two, either directly or through ownership of stock, are authorized and empowered to contract with any person or corporation to construct aqueducts, pipes, dams, reservoirs, locks, gates, hydrants, and other necessary structures upon lands so taken, as hereinbefore prescribed. Any such corporation organized to construct any such aqueduct, is empowered to place all or any part of its capital stock in the name of a trustee, or trustees, and to contract that said trustee, or trustees, shall sell and deliver the same to the city in installments from year to year, as may be agreed upon.

May contract for construction of aqueducts, etc.

SECT. 7. For the purpose of carrying into effect the provisions of this act, the city council of Auburn, at a meeting duly called therefor, may, as soon as this act takes effect, and shall, as soon as the city comes into ownership, control or management of a system of water works, by building, purchase, or otherwise, elect by ballot six water commissioners, whose duty it shall be to perform all such acts for the city, necessary and convenient for the full operation of this act, as may be prescribed by ordinance, or as directed by said city council from time to time. The six persons first chosen as aforesaid, shall serve, one for one year, one for two years, one for three years, one for four years, one for five years, one for six years, from the third Monday of March then following, as may be designated by the city council when elected; and thereafterwards one commissioner shall be elected by ballot annually in the month of March, to serve for the term of six years. The city council may fill any vacancy occurring in said board by death, resignation or otherwise. The mayor of the city for the time being shall be, ex-officio, a member of the board of water commissioners. Until such water com-

Election, duties and tenure of water commissioners.

—vacancies, how filled.

—mayor, ex-officio, a member.

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missioners are elected, the mayor and aldermen of the city shall perform the duties of the water commissioners.

Board shall fix rates.

SECT. 8. Said board of water commissioners is authorized to fix the rates of water to be paid monthly, quarterly, or annually, by persons supplied with the same, subject to the action of the city council, and in the same manner determine the conditions and manner of such supply, and shall have general charge and control of the city's water system.

Authorized to lay pipes in any highway.

SECT. 9. Said city or said trustee, or any corporation of which either may obtain control directly or indirectly, as described in section two, are authorized, for the purposes of carrying into effect the provisions of this act, to dig up and excavate any highway, lay pipe therein, and fill the same under the direction of the street commissioner.

Shall file notice of taking of water, etc., in registry of deeds.

SECT. 10. Whenever said city, or said trustee, or any corporation of which either may obtain control, as provided in section two, either directly or through ownership of stock, shall, under section one, take water from any of the sources therein named, it shall file in the registry of deeds, in the county of Androscoggin, a notice of such taking, describing the size, location and depth of the pipe, or pipes, through which said water is to be taken from said sources. The said city, or said trustee, or said corporation, shall pay all damages sustained by any person or corporation in property, by the taking of any water, water sources, water right, or easement, or by any other thing done by said city, or by said trustee, or by said corporation first named in this section, under the authority of this act, which shall be determined and assessed in the same manner as provided in section four, for land taken under the provisions of this act.

—damages, how determined and assessed.

Act shall not take effect unless city, within fifteen months, offers to purchase property of the Auburn Aqueduct Company.

SECT. 11. Subject to the provisos hereinafter contained, the preceding sections of this act shall not take effect, unless the city of Auburn shall, within fifteen months from the approval hereof, give the Auburn Aqueduct Company a written notice offering to buy all its property, franchises, rights and privileges except only its cash assets, and shall also thereafter pay, or cause to be paid, therefor, a price to be determined in the manner herein provided. Unless the said city and said company shall agree upon the price to be paid, or upon some other method of determining said price, then within three months after the giving of said notice, but not

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thereafter, either the city, or the Auburn Aqueduct Company may file in the clerk's office of the supreme judicial court, in and for the county of Androscoggin, either in term time or vacation its request to the court to appoint a commission, for the purposes hereinafter set out, to consist of five disinterested persons, none of whom shall be residents of Androscoggin county; at least one of whom shall be a person learned in the law, and at least one a competent and skillful engineer, and the others well qualified to judge of the value of said property, franchises, rights and privileges. Thereupon, after reasonable notice ordered by the court sitting in said county, or by any judge, either the court, or such judge in vacation, in said county, or elsewhere, may appoint said commission. Such commission shall, as soon as may be, but after reasonable notice, hear the parties, their proofs, and arguments, and determine the value of said property, franchises, rights and privileges, except only cash assets as aforesaid. In determining such value the commission shall take into account any existing contracts between the company and the city, the considerations thereof, and all acts done thereunder or in pursuance thereof. The commission shall have power to compel the attendance of witnesses, and the production of books and papers pertinent to the issue, and may administer oaths; and any witness or person in charge of such books or papers, refusing to attend or to produce the same, shall be subject to the same penalties and proceedings, so far as applicable, as witnesses summoned to attend the supreme judicial court. The commission, or a majority thereof, after such hearing, shall report to the court, in said county, in term time, what in its judgment is a fair and just value of the property, franchises, rights and privileges, which it is directed to appraise, and all other findings which it may have been directed by the court or judge to make, and such papers and proofs taken by it, as the court or any judge thereof has directed, or may from time to time direct it to return; and in its report, the commission shall state the date as of which the value aforesaid was fixed. The court may confirm such report, or reject it, or recommit the same, or submit the subject matter thereof to a new commission. The fees and expenses of all the commissioners shall be paid to them, one-half by the city and one-half by the Auburn Aqueduct Company. All proceedings of the court, or any judge, with

If parties cannot agree upon price, Supreme Judicial Court, upon request, shall appoint a commissioner to determine value of property.

—proceedings.

—fees, how paid.

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reference to any matter herein, raising a question of law, whether in term time or vacation, shall be subject to exceptions in the manner provided by statute. But notwithstanding said exceptions, the case shall proceed at nisi prius, and shall not be marked "law" until after judgment is entered, as hereinafter set forth, unless the court or the judge being of the opinion that any question involved is sufficiently important, shall otherwise order. When the court confirms the report of the commission, it shall enter judgment thereon, and within two calendar months after the entry of such judgment, the city shall notify the Auburn Aqueduct Company, in writing, of its willingness to purchase said property, franchises, rights and privileges, at the price determined by said judgment, and to pay said company therefor. And within two calendar months after such notice is received by said company, it shall notify said city, in writing, that it will or will not, sell its property to said city at said price. And if said company shall accept the offer, it shall forthwith cause deeds of transfer and conveyance to be made, and filed in the clerk's office of the supreme judicial court for Androscoggin county, for the inspection of the city of Auburn, and to be approved by the court, or any justice thereof, in term time or vacation. Said deeds shall convey all the property, franchises, rights and privileges, except cash assets, then owned by the Auburn Aqueduct Company, to said city, or to such person or persons, or corporation, in trust, for the benefit of the city, as the city may designate, subject to any mortgages given to secure the payment of bonds not then due, existing thereon at the time the notice is given by the city, as hereinbefore provided, and subject to a lien for the adjustment of matters remaining to be adjusted, as hereinafter set out. And if said city shall designate that said property, franchises, rights and privileges, shall be conveyed to any person or persons, or corporation, in trust, as aforesaid, it shall also designate the terms of said trust, which shall be incorporated in said deed. And when said deed or deeds shall be approved, as aforesaid, they shall be delivered to said city, or said trustee, as the case may be, and said city, or said trustee, shall thereupon pay said company the amount determined by said judgment, and interest thereon, less the face value and accrued interest of any bonds secured by any

existing mortgage of any of its property or franchises, as hereinbefore provided. If at the time of said conveyance, there shall be any existing mortgage, as aforesaid, the city, or such trustee, in his said capacity, shall assume the payment of all the principal sums, and interest, remaining unpaid, or thereafter coming due; and such trustee, in his said capacity, and also the city, so far as lawful under the provisions of the constitution of the state, shall be holden to pay all the sums so assumed. Nothing in this act, nor any proceedings thereunder, so long as the same are pending, until conveyance is made, as hereinbefore directed, shall prevent or embarrass the Auburn Aqueduct Company from supplying water as authorized by its charter, or extending its works, or making any improvements which will inure to its own interests, or the interests of the inhabitants of Auburn, nor from receiving water rents and other dues and tolls, thereafter accruing. After said property, rights, franchises and privileges are transferred, as hereinbefore provided, the court shall take account of all receipts and expenditures properly had or incurred by the Auburn Aqueduct Company, from and after the date on which said property is valued, as aforesaid, and shall enter judgment for the net balance for or against the Auburn Aqueduct Company, as the case may be, and shall fix the time within which the same shall be paid. And in the event the same is in favor of the Auburn Aqueduct Company, if not paid within the time so fixed, the court shall enforce the same against the property, franchises, rights and privileges conveyed as aforesaid by sale, or otherwise, according to the principles governing courts in equity, with reference to enforcing liens and securities, and by issuing execution against the city, so far as may lawfully be done under the constitution of the state, and against such person or corporation trustee; and in like manner it shall issue execution against the Auburn Aqueduct Company, for any balance then due from it. When said conveyance is made as aforesaid to said city, or trustee, the city shall thereupon enter into possession and control of the property, rights, franchises and privileges therein transferred, subject to be divested thereof only upon a failure to pay the mortgaged indebtedness aforesaid of the Auburn Aqueduct Company, or otherwise, as is herein provided. Provided, nevertheless, that if the Auburn Aqueduct Company shall refuse to accept

—pending conveyance, company shall continue to supply water, etc.

—judgments against either party, how enforced.

—if company refuses to accept price, then all

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other sections of act shall effect as if this section did not exist.

the price as determined by said judgment, or to sell its property therefor, or shall neglect to notify said city, within the time limited by this section, of its acceptance or refusal, then all other sections of this act shall have the same effect as though this section did not exist.

How payment shall be made for property conveyed in trust by the company.

SECT. 12. Any person or persons, or corporation to whom the property and franchises of the Auburn Aqueduct Company shall be conveyed in trust, as provided in section eleven, or to whom any stock in any company shall be conveyed in trust for the benefit of said city, shall hold the same as security for any person or corporation who may have advanced money for its purchase, and may, from time to time, sell and deliver the same, or debentures representing the same, to the city, discharged of its trust, in such manner and upon such terms as may be agreed upon by the city and such trustee, and the persons advancing such money. And as further security, such trustee or trustees may be entitled by contract to receive the net rents and profits of said property, with one per cent of the principal annually, and apply them to the payment of any such advances and the interest thereon. Such trustee, with the consent of the city, may also create or hold security on said property, rights, privileges and franchises, for money advanced by any person or corporation to improve or extend the system of water works hereinbefore described.

City authorized to issue bonds.

SECT. 13. For the purpose of raising money to carry out the provisions of this act, the city of Auburn may issue bonds, registered, or with interest coupons, under the direction of its city council, to an amount which, taken in connection with the other indebtedness of the city, will not exceed the amount limited by the constitution of Maine. And such bonds shall be signed by the mayor and treasurer of the city, but the coupons need be signed by the treasurer only, and shall be designated and marked, "The Auburn Water Loan." And for the same purposes the city may sell any stock which it now holds in any corporation.

Water rates, how fixed.

SECT. 14. The rates for the supply of water under this act shall be fixed so that all expenses for repairs and management shall be paid annually, together with interest, and not less than one per cent of the principal expenditures.

Debentures may be issued by the trustee.

SECT. 15. For the purpose of raising money to carry out the provisions of this act, and to extend and improve the

system of water works, which may be purchased from the Auburn Aqueduct Company, by building reservoirs and pumping stations, buying necessary machinery and appliances connected therewith, and laying additional pipes and mains, said trustee or trustees are authorized, with the consent of the city, to hire money and to issue therefor interest bearing debentures, in the manner and at a rate not to exceed that which may be specified in the deed of trust from said company to said trustees, which deed of trust shall be made in accordance with the directions of said city. Said debentures shall be made redeemable by the city or trustees from year to year through a series of years, and said trustees may create or hold security on said property for the payment of said debentures. And when said city shall have paid from its own funds ten per cent of the amount paid to the Auburn Aqueduct Company, said debentures may be purchased and held by savings banks in this state.

—redeemable
by the city.

SECT. 16. Except as herein otherwise provided, this act shall take effect when approved.

When act shall
take effect.

Approved February 19, 1891.

Chapter 83.

An Act to incorporate the Seal Harbor and Shore Front Water Company.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECT. 1. James T. Gardiner, D. Everett Kimball, Alanson E. Clement, Edwin H. Abbot and William C. Doane, and such persons as they may associate with themselves in the enterprise, are hereby incorporated into a corporation by the name of the Seal Harbor and Shore Front Water Company for the purpose of supplying the village of Seal Harbor, the territory lying between said Seal Harbor and North East Harbor in the town of Mount Desert, county of Hancock and state of Maine, with pure water for domestic, sanitary and municipal purposes, the extinguishment of fires, the supply of shipping and the use of manufactories.

—Incorporators.

—Corporate
name.

—Purposes.

SECT. 2. Said corporation for said purposes shall have power and is hereby authorized to detain, take, store, use

Authorized to
take water from
Jordan's pond,
erect dams,
etc.