

CHAPTER 291.

CHAPTER 291.

[Published April 23, 1861.]

▲N ACT to authorize the construction of water works in the city of Milwaukee.

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

SECTION 1. All such persons, not less than three,^{Corporate powers.} as shall become stockholders in the capital stock hereinafter mentioned, their successors and assigns, shall be and are hereby constituted and made a body politic and corporate, upon the terms and conditions hereinafter mentioned, and by the corporate name mentioned in the certificate to be filed as provided in the next succeeding section, shall be capable in law of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatever, in all manner of actions, suits, complaints, matters and causes whatsoever; may have a common seal, and may alter the same at pleasure, and by the same name shall be capable of purchasing, holding and conveying any estate, real, personal or mixed, for the use and benefit of said corporation.

SECTION 2. Before the persons mentioned in the preceding section shall exercise any of the corporate powers herein conferred, the stockholders mentioned in said section shall make and subscribe a certificate in writing, and shall file the same in the office of the clerk of the circuit court of the county of Milwaukee. Such certificate shall specify: 1st. The name assumed by such company, by which it shall be known. 2d. The amount of its capital. 3d. It shall state their purpose to be to supply the city of Milwaukee with water; and upon filing such certificate, the persons subscribing the same may exercise all the corporate powers and privileges conferred, and shall be subject to all the liabilities imposed by this act.^{Certificate of stockholders to be filed—what to specify.}

SECTION 3. The capital stock of said corporation shall not be more than six hundred thousand dollars, and shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and may be transferred in such manner as the by-laws of such company shall direct.^{Capital stock, shares, &c.}

- CHAPTER 291.** SECTION 4. The company organized under this act, after they shall have obtained the consent of the common council of the city of Milwaukee, shall have the right to construct water works, to supply said city with water, and shall have the right to construct all suitable works and apparatus, and lay pipes for the purpose of conducting water in any of the streets, highways, avenues and alleys of said city: *provided*, that no unnecessary injury shall be done to such street, highway, avenue or alley.
- Rights of company.**
- Proviso.**
- Board of directors—how elected.** SECTION 5. The property and the affairs of said company shall be managed and conducted by a board of not less than three nor more than seven directors, who shall be elected annually, and who shall be respectively stockholders in said corporation, and who shall be elected by the stockholders at such time and place as shall be directed by the by-laws of the corporation, each share of stock being entitled to one vote, which may be cast by the holder thereof or by proxy duly authorized. All such elections shall be by ballot, and the person receiving the majority of votes cast shall be directors, and when any vacancy shall happen from any cause, it shall be filled for the remainder of the year in such manner as shall be provided for by the by-laws of such corporation. The number of directors, and how many shall constitute a quorum for the transaction of business, shall be determined by said by-laws.
- President.** SECTION 6. The directors shall annually, after their election, elect one of their number president, whose duty it shall be to preside in their meetings, and in case of his absence at any meeting, the directors present may elect a president *pro tem*. The directors shall have power to make and prescribe such by-laws, rules and regulations, respecting the management of the property, concerns, business and stock of such corporation, as they may deem expedient and proper. All meetings for the transaction of business for the corporation, shall be held at their office, which shall be located in the said city, and the manner and time of calling meetings shall be prescribed by the by-laws of said company. The directors shall have power to appoint a treasurer and secretary and such other officers as may be required by the business of said company, and may remove the same at pleasure, and fix the compensation and define the duties of all officers. They
- By-laws, &c.**
- Meetings.**
- Treasurer, secretary, &c.**

shall have power to determine the time, manner and proportions in which the stockholders shall pay the money due, or an equivalent therefor, from their respective shares, and to make such rules respecting the forfeiture of stock and shares as they may deem advisable. They shall also have power to appoint a time certain each year for the election of directors; but such elections shall always be held at the office of said company, upon notice to the stockholders of not less than thirty days before such election, published in one newspaper in the said city: *provided*, that if for any cause such election shall not be held at the time appointed, the same may be held at any future time upon a like notice being given to the stockholders, and the directors of the preceding year shall in all cases continue in office until the election of their successors.

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Annual election of directors.

Proviso.

SECTION 7. The said corporation may increase its capital stock and the number of shares therein, at any meeting of the stockholders especially called for that purpose: *provided*, that the amount as increased shall not exceed the amount authorized by the provisions of this act.

Increase of capital stock.

Proviso.

SECTION 8. The said corporation shall be authorized, for the purpose of procuring and conducting the water necessary for the purposes for which they are organized, to construct any dam, aqueduct, embankment, tunnel or reservoir, and to lay down water pipes.

May construct dams, &c.

SECTION 9. It shall and may be lawful for the said company, their officers, engineers and agents to enter upon any lands for the purpose of exploring, surveying and locating any such dam, aqueduct, embankment, tunnel, reservoir or water pipe, doing thereto no unnecessary damage; and when the location of any such work shall be determined upon by the said company, it shall be lawful for them, their agents, officers, engineers, contractors and servants at any time to enter upon, take possession of and use such lands, not exceeding four rods in width on either side of any such dam, aqueduct, embankment, tunnel, or water pipes, subject, however, (whenever such lands are not streets, highways, avenues or alleys,) to the payment of such compensation as the company may have agreed to pay therefor, or which shall be ascertained in the manner hereinafter directed and provided.

May enter upon lands for certain purposes.

Damages to be paid.

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Judge may appoint commissioners to appraise damages.

Commissioners to take an oath.

Report to be made and filed.

SECTION 10. When the said corporation cannot agree with the owner or owners of such required land for the purchase thereof, or for the damages sustained by said owner or owners thereof, or as to the compensation to be paid to the owner or owners of any land taken for the purpose aforesaid, or when by reason of the legal incapacity or absence of any such owner or owners, no such agreement or purchase can be made, then and in any such case it shall be lawful for the judge of the circuit or county court of the county in which such lands are situated, on application of either party and at the charge of such corporation, to appoint three disinterested persons residing in said county, whose duty it shall be to view and examine or survey said lands, with the buildings and improvements thereon, if any, and estimate the value of the land so taken or required by the said company, and all damages which the owner or owners thereof shall sustain or may have sustained by reason of the taking of the same for the construction and use of such water works, or works appertaining thereto, taking into consideration the advantages or disadvantages of the same to the said owner or owners; and the persons so appointed, before entering upon the discharge of their duties, shall take an oath before some justice of the peace, or other person competent to administer oaths, faithfully and according to the best of their abilities to examine the land so taken or required by said company, and impartially to examine and appraise the value of the same, and the damages or injuries which the owner or owners thereof shall have sustained or may sustain by reason of the taking and using thereof by the said company, over and above all benefits and advantages which such owner or owners shall derive from the construction of such water works; whereupon such commissioners shall proceed to examine the premises and estimate the value of such land and the amount of damages, if any, over and above the benefits and advantages which may accrue to such owner or owners as aforesaid, and shall make a report of such valuation in writing, under their hands and seals, to said judge, and shall return the same within thirty days after their appointment, to the clerk of the circuit court of the county in which they reside, and it shall be the duty of the said clerk to file the same; and in case no ap-

peal shall be made within thirty days after the filing of said report as hereinafter provided, then the said clerk shall record the same at the expense of the said company, and judgment of the said court shall be entered thereon, on motion of either party, at any term of said court: *provided*, that either party may appeal to said court within thirty days after said report shall have been filed in the clerk's office, and such appeal shall be tried in said court, and the jury empaneled to try the same shall find the value of the land so taken or required by said company, and the damages which the owner or owners thereof shall have sustained or may sustain by taking the same, over and above the benefits which will accrue to such owner or owners from the construction of such water works; and judgment of court shall be entered accordingly: *provided, also*, that it shall not be lawful for the said commissioners, or the said court, to proceed in the assessment of damages or in the valuation of any lands in the absence of the owner or owners thereof, or of his, her or their agents or attorney, unless it shall be shown to them, by competent testimony, that the said owner or owners have had at least five days' notice of the time and place at which such assessment or valuation was to be made, or that the said owner or owners are absent from the state of Wisconsin; and that if the said owner or owners shall be minors or *non compos mentis*, or absent from the state, the service of notice may be made on their guardians or trustees, if any there be, or in such manner as the said court may direct.

CHAPTER 291.

Entering Judgment.

Appeals—how tried, &c

When damages may be assessed in absence of owners of lands.

SECTION 11. If any person shall negligently, knowingly or willfully do or cause to be done, any acts whatsoever to injure any machine, pipe or structure, or anything appertaining to the works of such corporation, whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail for a time not exceeding one year, or both by fine and imprisonment: *provided*, that such criminal prosecution shall not in any way impair the right of such company for damages by civil action to be brought for any such injury aforesaid, by and in the name of said corpora-

Penalty for injury to machines, pipes, &c.

Civil action for damages.

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Corporation may
borrow money,
execute notes,
bonds, &c.

Powers of com-
mon council.

Provide.

tion, in any court of the state having competent jurisdiction of the same.

SECTION 12. The said corporation is hereby authorized and empowered in its corporate capacity to borrow any sum or sums of money from any person or persons, corporation or body politic of any kind, and make and execute, in their corporate name, all necessary notes, bonds, writings or other papers, and make, execute and deliver such securities by way of mortgage or otherwise, in amount and kind as may be deemed expedient by such corporation, for all purposes in carrying out the objects of such company; and the official acts of such company are hereby declared binding in law and equity upon such corporation and upon all other parties to such contract.

SECTION 13. The common council of the city of Milwaukee may by ordinance approve of the organization made under this act for the purpose of supplying said city with water, and may grant to such company the use of all streets, highways, avenues and alleys, and may further agree with said company on the amount to be paid to them for water for the corporate use of said city, and the purposes to which water paid for by [said] city shall be applied; and may also agree with said company upon the rates to be charged for the supplies of water to the inhabitants of said city, and also upon the terms and conditions upon which said rates may be levied upon property in said city, or any part thereof, for water rates, for water furnished to and used by private persons: *provided*, that such power shall not be so exercised as to violate any provision of the constitution; and all agreements and ordinances entered into and passed in pursuance of this act, shall have the force of law; but shall not in any wise empower the common council to levy or collect any tax or contract any debt whatever, for the purpose of constructing said water works, or introducing the same into any part of said city other than for the consumption of water so furnished.

SECTION 14. This act shall be published immediately, and shall take effect from and after its publication; and all acts and parts of acts conflicting herewith, are hereby repealed.

Approved April 15, 1861.