PRIVATE AND LOCAL

66

LAWS

PASSED BY THE

LEGISLATURE OF WISCONSIN

IN THE YEAR 1871.

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and of all proceedings therein and appeals therefrom, shall apply to and govern and be followed by said judges of said courts, except where changed, altered or contravened by the provisions of this act or inconsistent therewith.

Construction of act.

SECTION 21. Nothing herein contained shall be construed as making the courts herein provided for, courts of record, but they shall be deemed courts of inferior and limited jurisdiction, and their jurisdiction in no civil matter shall be greater than that of justice of the peace under the laws of this state except as herein provided.

SECTION 22. This act shall be deemed and taken as a public act, and shall take effect from and after its passage.

Approved March 24, 1871.

CHAPTER 475.

[*Published April 6, 1871.*]

AN ACT to enable the city of Milwaukee to construct water works, and to carry on and manage the same.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Board of water commissioners established.

SECTION 1. There is hereby established a board of water commissioners of the city of Milwaukee, to be composed of seven members to be residents of the said city; the term of office of one of whom shall expire on the day of the municipal election in the said city in each year. The first members of the said board shall hold their offices respectively for one, two, three, four, five, six and seven years, and thereafter the term of office of the said commissioners shall be seven years. No member of the said board shall ever receive any salary or other compensation for his services, and no person holding any other office in the said city, for which he is entitled to receive a salary or other compensation shall be eligible as a member of the said board, and the acceptance of any such other office by any

No salary to be paid.

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member of the said board or his removal from the said city shall operate as a resignation of his office as a member thereof.

First board of commissioners.

SECTION 2. Alexander Mitchell, John Plankington, Edward H. Brodhead, Edward O'Neill, Guido Pfister, Frederick Palst and George Burnham are hereby appointed the first members of the said board, who shall within thirty days after the passage of this act determine by lot their respective terms of office, and file a certificate thereof, signed by them, or a majority of them, in the office of the clerk of the common council of the said city. When their respective offices shall be vacant, the mayor of the said city shall nominate, and by and with the advice and consent of the common council, appoint all members of the said board and fill all vacancies therein, by death, resignation or otherwise. All appointments to fill vacancies shall be for the unexpired term of the member whose vacancy is filled

Commissioners to hold no salaried office in the company nor be interested in contract.

SECTION 3. No member of the said board shall ever be appointed to any office thereunder or receive any employment therefrom or under its authority for which he would be entitled to any salary or other compensation. And no member of the said board shall ever be directly or indirectly interested in any contract or agreement with the said city, made under the authority of this act or any act amending the same, by which money or other valuable thing shall be payable by or proceed from the said city, with intent to gain thereby, directly or indirectly, any benefit, profit or advantage. And any member of the said board so interested in any such contract or agreement shall be held to have violated and to be subject to prosecution, under section 50 of an act entitled "an act to amend an act entitled an act to consolidate and amend the act to incorporate the city of Milwaukee, and the several acts amendatory thereof," approved February 20, 1852, "and to enable the electors of the city of Milwaukee to revise, codify and amend their charter," approved March 27, 1858.

Officers of the board.

SECTION 4. The said board shall choose one of their own number as their president, and may remove him at pleasure, and appoint another of their own number in his stead as president. They shall also have power to employ a secretary, who shall hold his office

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at their pleasure, and who shall keep a full and true record of all the proceedings of the said board, and perform such other duties appertaining to his office as the said board shall from time to time direct. The said board shall have power to regulate the times and mode of holding their own meetings. The president shall preside at all meetings at which he shall be present; and in his absence any other member appointed by those present. Four shall constitute a quorum at any meeting, but no questions at any meeting shall be determined by the votes of less than four of the said commissioners. They shall hold their office in the city of Milwaukee at such place as may be designated by the said common council.

To determine best mode of supplying water.

SECTION 5. It shall be the duty of the said board to examine, consider and determine the best mode, plan or system of supplying the said city with a sufficient quantity of pure and wholesome water from lake Michigan or some other source, for the use of the said city and the inhabitants thereof.

Shall make specifications, etc.

SECTION 6. When the said board shall have so determined on the mode, plan or system of so supplying the said city with water, they shall cause proper specifications and diagrams thereof to be prepared, and an estimate of the cost thereof to be made, and submit the same to the common council of the said city for approval. It shall be lawful for the said common council to propose amendments, modifications or alterations therein, and refer back the same to the said board from time to time. And it shall be lawful for the said board, from time to time, to propose amendments, modifications or alterations therein, and submit the same to the said common council. Whenever a mode, plan or system of so supplying the said city with such water shall be agreed upon between the said board and the said common council, it shall be adopted for the said city: *provided, however*, that such mode may be altered, modified or amended, from time to time, by the joint action and consent of the said board and the said common council; *and provided, further*, that the said board may, in their discretion, propose, and the said common council may, in their discretion, adopt parts of the general mode, plan or system in detail, from time to time.

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May construct tunnel under the lake.

SECTION 7. For the purpose of performing their duties under this act, power is hereby granted to the said board to construct a tunnel or other aqueduct, under such part of lake Michigan within the boundaries of this state as may be necessary or convenient, and at the eastern or lake end of such tunnel or other aqueduct, to construct and maintain a crib and such other works as may be necessary to receive the lake water, and to continue and construct such tunnel or other aqueduct under all lands and rivers in the said city as may be necessary or convenient, and to construct a reservoir or reservoirs, and such other buildings, structures, machinery and fixtures as may be necessary or convenient, at or near the western or land end of the said tunnel or other aqueduct, and such other reservoirs, buildings, machinery and fixtures as may be necessary to obtain a full and sufficient supply of water for public and private use in the said city from lake Michigan, and to have such water ready for distribution throughout the said city, according to the mode, plan or system adopted by the said board and the said common council.

May construct jets and hydrants.

SECTION 8. The said board shall have power to construct jets and fire hydrants, and also hydrants for public use, and fountains, at such places in the said city as the said board with the approval of the common council shall determine, and also to lay water pipes in and through all the alleys, streets and public grounds in the said city, and generally all such works as may be found necessary or convenient from time to time, for the purposes of this act.

May enter upon land or water.

SECTION 9. The said board shall have power by themselves, their officers, agents and servants, to enter upon any land or water in the said city, for the purpose of making examinations or surveys, in the performance of their duties under this act, without liability therefor.

May purchase property.

SECTION 10. The said board shall have power to purchase and acquire for the said city, all real and personal property which may be necessary for the construction of the works hereby provided for: *provided*, that the said board shall make no such purchase for a sum exceeding one thousand dollars, without first obtaining the approval of the said common council.

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May procure easement or use of real estate.

SECTION 11. Whenever any real estate or any easement therein or use thereof shall, in the judgment of the said board, be necessary for the construction of the said works, and for any cause an agreement for the purchase thereof cannot be made with the owner thereof, they shall report the same to the common council, and thereupon the said common council shall proceed as provided in chapter 6 of an act entitled "an act to consolidate and amend the act to incorporate the city of Milwaukee, and the several acts amendatory thereof," approved February 20, 1852, and the acts amendatory thereof, as in the case of taking lands for public squares, grounds, streets and alleys, except that no petition or bond shall be necessary; and all the other provisions of said chapter 6, and of the acts amending the same, shall apply to the taking of such real estate, easement or use, for the construction of such works, so far as the same may be applicable.

Shall be the property of the city.

SECTION 12. All property, real, personal and mixed, acquired for the construction of the said water works, and all plans, specifications, diagrams, papers, books and records connected therewith, and the said water works and all buildings, machinery and fixtures appertaining thereto, shall be the property of the said city of Milwaukee.

May appoint treasurer, engineers, etc.

SECTION 13. The said board shall have power to appoint a treasurer and to employ one chief and other engineers, a general superintendent, and such clerks, collectors and agents as may be necessary in the construction, maintenance and management of the said water works, and to fix the compensation of all persons employed by them: *provided*, that all such employments and compensation shall be subject to the approval of the said common council, and shall have no force until so approved.

Water fund—how raised and appropriated.

SECTION 14. There is hereby created for the said city a separate fund, to be called the water fund. There shall belong to such fund all bonds and the proceeds thereof, authorized by law to be issued for the construction of the said water works, all proceeds of all taxes levied for the construction of said water works, all water rates assessed and collected for water proceeding therefrom, and all other proceeds, revenue and income of the said water works, and all other moneys and property in any way derived by the said city, in aid of the said

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water works, or appropriated by the said common council towards the same. And the said fund is hereby exclusively devoted and appropriated to the construction of the said water works, and to the payment of the said water bonds, until the said works shall be wholly completed, and the said bonds wholly paid.

Treasurer to execute bond.

SECTION 15. The treasurer of the said board shall give bond with sufficient sureties, and in a sufficient amount, such sureties and such amount to be approved by the said board and the said common council, for the faithful keeping and disbursement of all moneys deposited with him to the credit of the said water fund, and the faithful discharge of his duties as such treasurer. And all moneys belonging to the said water fund shall be deposited with him, and drawn out upon warrants signed by the president and secretary of the said board, and countersigned by the comptroller of the said city.

How proceed with the work, and how contract.

SECTION 16. It shall be the duty of the said board to proceed as rapidly with the construction of the said water works, as the nature of the works and the solidity and permanency of their construction and the funds available therefor will permit. They may make contracts for the construction thereof, payable in the said water bonds, or partly in bonds and partly in money. But the said board are hereby expressly prohibited from incurring any expense the means of liquidating which shall not first be provided.

Annual report of the board.

SECTION 17. It shall be the duty of the said board on or before the first Monday of March in each year, to report to the said common council, their plans for work for the ensuing year, and the nature, extent and details of the work which they propose to do during the year, and the estimated cost thereof, for approval. The said common council shall take such report into consideration, and shall have power to propose amendments, modifications or alterations therein, and refer the same back to the said board from time to time. And the said board shall have power, from time to time, to propose amendments, modifications or alterations therein, and submit the same to the said common council. No plan of work for such year shall be adopted without the approval of the said board and the said common council. But such plan when adopted may be amended,

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modified or altered, by the joint consent of the said board and the said common council.

May let work in divisions.

SECTION 18. When such plan of work for the year shall have been so adopted, the said board shall have power to proceed to let the same in such divisions, and by as many lettings as they shall deem expedient, in the same manner as contracts are let by law by the board of public works of the said city. All such contracts shall be approved as to form by the city attorney of the said city before execution, and shall be executed on behalf of the said city by the president and clerk of the said board of water commissioners, and countersigned by the comptroller of the said city, in duplicate, one copy whereof shall remain in the office of the said board, and one copy shall be deposited with the comptroller of the said city.

Work may be done without letting contract

SECTION 19. Whenever, in the judgment of the said board, it will be more for the interests of the said city to do any work by its own servants, agents and workmen, than to let the same by contract, it shall be the duty of the said board to report the same to the common council with their reasons therefor. Thereupon the common council shall have power by a vote of two-thirds of all the members of each board thereof, to authorize the said board of water commissioners so to do such work without letting the same.

Shall report to common council quarterly.

SECTION 20. It shall be the duty of the said board to report all their doings, and the state of the said water fund, and the general condition of the said water works to the common council of the said city, once in three months.

Shall send estimate to comptroller.

SECTION 21. It shall be the duty of the said board, whenever they send a contract to the comptroller of the said city to be countersigned, to send to him therewith as accurate an estimate as can be made of the gross contract price of the work to be let thereby, and a statement of the funds applicable to the payment thereof. And the said comptroller shall in no case countersign any contract, unless in his judgment funds are sufficiently provided for the payment of such price as the same shall become due.

Shall keep separate account.

SECTION 22. It shall be the duty of the comptroller of the said city to keep separate accounts of all the funds, receipts and payments of the said board, and a separate record of all contracts made by the said board,

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and of the estimates of the cost of such contracts, and generally to keep separate books for the said water fund and water works, as he is or may be by law required to keep of other property, funds and interests of the said city.

Shall be under control of board.

SECTION 23. The said water works and all the grounds, buildings, fixtures, machinery and other things appertaining thereto, shall be under the control of the said board, who shall have power to regulate and control, and have a general supervision over the same, subject to the authority of the said common council.

May make by-laws, etc.

SECTION 24. The said board shall have power from time to time to make and enforce by-laws, rules and regulations, in relation to said water works, and before the actual introduction of water they shall make such by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said water works, and for the collection of the same, and fixing the manner of distributing and supplying water for use or consumption, and for withholding or shutting off the same for cause. And they shall have power, from time to time, to alter, modify or repeal such by-laws, rules and regulations: *provided, however*, that no such by-law or alteration, modification or repeal thereof, shall have any force until submitted to and approved by the said common council.

Water rates to be lien upon lots.

SECTION 25. All water rates for water furnished to any building or premises which shall remain unpaid for thirty days after the same shall be due shall be a lien on the lot, part of lot, or parcel of land on which such building or premises shall be situate. And it shall be the duty of the clerk and the president of the said board to furnish a certificate of such unpaid water rate, and of the lot, part of lot or parcel of land on which such building or premises are situate, to the comptroller of the said city, who shall countersign the same. And the same shall have, thereupon, all the effect of a certificate of special assessment against such lot, part of lot, or parcel of land, and shall be put upon the tax roll and collected as other special assessments are collected by law.

Penalty for wilful injury to water works.

SECTION 26. Any person who shall wilfully pollute or otherwise injure any water supplied by the said water works in any tunnel, aqueduct, reservoir, pipe or other thing, or shall wilfully injure the said water

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works, or any building, machinery or fixture appurtenant thereto, or shall wilfully and without authority of the said board, impede or derange the flow of water in any tunnel, aqueduct, pipe or other thing belonging to the said water works, or shall wilfully and without authority of the said board, bore or otherwise cause to leak, any tunnel, aqueduct, reservoir, pipe or other thing used in the said water works for holding, conveying or distributing water, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not exceeding one thousand dollars, or imprisoned for a term not exceeding two years, or both.

Shall pass ordinances to protect works.

SECTION 27. It shall be the duty of the said common council, and they are hereby empowered, from time to time, to pass such ordinances as may be deemed necessary or expedient to protect the said water works and the use thereof, and to enforce the by-laws, rules and regulations of the said board.

SECTION 28. This act shall take effect and be in force from and after its passage and publication.

Approved March 24, 1871.

CHAPTER 476.

[*Published April 5, 1871.*]

AN ACT to extend the provisions of chapter 79 of the revised statutes, entitled "of railroads," to the Manitowoc and Minnesota Railroad Company, and authorizing a branch road.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

May exercise provisions of the statutes, and build branch.

SECTION 1. That the Manitowoc and Minnesota Railroad Company shall have the right, and is hereby authorized, to use and exercise all or any of the powers, franchises and immunities mentioned in and conferred upon railroad companies by chapter 79 of the revised statutes, entitled "of railroads," and may also construct and operate a branch railroad from some point on its main line of road in the city of

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