

ACTS

OF THE

One Hundredth Legislature,

OF THE

STATE OF NEW JERSEY.



PATERSON, N. J.:

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GENERAL PUBLIC LAWS.

CHAPTER CXCIH.

An act for the construction, maintenance and operation of water works for the purpose of supplying cities, towns and villages of this state with water.

1. *BE IT ENACTED by the Senate and General Assembly of the State of New Jersey*, That any number of persons not less than seven, a majority of whom shall reside in this state, may form a company for the purpose of constructing, maintaining and operating water works, in any city, town or village in this state having a population of not more than fifteen thousand, and not less than two thousand inhabitants, and for the purpose of supplying such city, town or village, and the inhabitants thereof, with water.

A majority of persons forming a company shall reside in this state.

Certificate setting forth the name adopted by the company, and amount of capital stock to be filed with the secretary of State.

2. *And be it enacted*, That such persons desirous of forming a company for such purpose, shall make, sign and acknowledge before some officer authorized to take such acknowledgment of deeds, a certificate in writing, which shall state the corporate name adopted by the company, the amount of the capital stock, the term of its existence, the number of directors, the names of those who shall manage the affairs of the company for the first year, or until their successors are elected and qualified, and the name of the city, town or village in or for which such works are to be constructed and the business of the company carried on, such certificate shall be filed in the office of the secretary of state, together with the consent in writing of the corporate authorities, if any, of the town or city proposed to be supplied with water.

When certificate and consent are filed, persons who have signed and acknowledged the same, shall be a body politic and corporate.

3. *And be it enacted*, That when such certificate and consent shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same and their successors shall be a body politic and corporate, and shall have power as such to take and divert any and all such springs and streams of water, and build, erect, alter, repair, enlarge, and maintain all such reservoirs and works, and lay down all such pipes and conduits for water, at such times and in

such places as shall be necessary and proper to enable said corporation to carry into effect the purposes of its incorporation.

4. *And be it enacted*, That it shall be lawful for such corporation to enter upon any and all lands in the neighborhood of the village, town or city which it is intended to supply with water and to make all such preliminary examinations, explorations, measurements and levellings as may be necessary and proper for its corporate purposes, doing thereby as little damage as possible to the owner or owners.

5. *And be it enacted*, That in case said corporation cannot agree with the owner or owners, or other persons interested in any lands which said corporation may desire to take, use and occupy, or from which they may desire to take or divert, either in whole or in part, any spring or springs, stream or streams of water, for the purposes of its corporation, as to the amount of compensation to be paid to such owner or owners for such taking, use, occupation or diversion, it shall be lawful for any justice of the supreme court of this state, upon application by said corporation; and upon two weeks previous notice, served in person, or by leaving at the dwelling house, or usual place of abode of such owner or owners, or, in case of absence from the state, or legal disability, published in a newspaper published nearest to the lands in question, to appoint three disinterested commissioners, resident of the county in which said lands are situated, to assess and ascertain the value of the lands so proposed to be taken, used and occupied; and the damages to be done to any lands by the laying down of such pipes, and erection and maintenance of such works, and by the diversion, total or partial, as the case may be, of said springs and streams of water; which commissioners shall appoint a time and place at which they shall meet to execute the duties of their appointment, and shall cause two weeks notices thereof to be given to the parties interested therein, either by personal service, or by publication in a newspaper published in the county where such lands may lie; at which time and place the said commissioners shall meet and view the premises, and hear the parties interested, and take evidence, if any be offered, and for that purpose shall have power to administer oaths or affirmations, and to adjourn from day to day, and in case of the refusal or failure of either or any of said commissioners to attend and perform their said duties the said judge

May enter upon lands &c.

Proceedings if company and owners cannot agree as to amount of compensation to be paid, &c.

Court to appoint commissioners to ascertain value of lands, &c.

Commissioners shall assess damages, &c.

shall have power to appoint another or other disinterested person or persons as commissioners to act in the place of such absent commissioner or commissioners; and the said corporation shall make and exhibit to the said commissioners at their meeting aforesaid for the use of the parties interested, a statement and description in writing, or by drawings or maps, or both, of the lands and streams by them sought to be taken or diverted as aforesaid, and of the use, occupation of, and excavations upon any lands by them sought to be made; and the said commissioners shall thereupon ascertain and assess the value and damages aforesaid, and shall execute under their hands and seals, or the hands and seals of a majority of them, an award to said corporation of the lands, rights and privileges by them sought in the statements and description aforesaid, stating therein the amount of damages and compensation therefor by them assessed in favor of such owner or owners, which award shall be by them acknowledged and filed in the county clerk's office, and by him recorded in the registry of deeds; *provided always*, that if any real estate, the owner or owners of which shall not have given his, her or their consent in writing to the diversion or diminution of said springs or streams, or to the damages to which by reason of the diversion or diminution of said springs or streams, shall not have been ascertained and paid pursuant to the directions of this act, shall be injured or damaged by the diversion or diminution of any said springs that the owner or owners thereof may have and maintain his, her or their action to recover damages for such injury which he, she or they may sustain by reason of anything done under this act as if this act had not been passed.

Proviso.

Amount of damages awarded to be paid before taking possession, &c.

6. *And be it enacted*, That before taking possession of any such lands, or entering thereon for the purpose of making any excavation or occupation thereof, or by diverting any spring or stream of water, the said corporation shall pay or tender to such owner or owners, or in case of absence from the state, or legal disability, shall deposit with the clerk of the circuit court of said county the amount of damages so awarded; and the award of said commissioners, and the payment or tender or deposit as aforesaid, of such damages shall vest in said corporation, the lands, rights and privileges by them sought, described and set forth in said statement and description, in all respects the same as if the same had

been conveyed to said corporation by said owner or owners under their hands and seals.

7. *And be it enacted*, That if either party feel aggrieved by said assessment and award, such party may appeal to the next or second term of the circuit court of said county, by petition and notice thereof served upon the opposite party two weeks prior to such term, or published a like space in a newspaper published nearest the lands in question, which petition and notice, so served or published, shall vest in said court full power to hear and determine said appeal, and if required they shall award a venire for a jury to come before them, who shall hear and finally determine the issue under the direction of the court, as in other trials by jury, and it shall be the duty of the said jury to assess the damages to the said lands as above mentioned, and the value of such as shall be absolutely taken ; and said court shall have power to order a struck jury, or a jury of view, or both, to try any such appeal ; and also to order any jury which may be empaneled and sworn to try any such appeal to view the premises in question during said trial, and the right of said corporation to appeal from and dispute the correctness of any award shall not be waived or taken away by the paying or tendering the amount of the award, and taking possession of the land or exercising the rights covered by such award ; and the right of any owner of any such lands or rights in like manner to appeal, shall not be waived or lost by the acceptance of the amount so awarded, when tendered, and upon the final determination of any such appeal the said court shall render such judgment in favor of the one party and against the other, as the right and justice of the case shall require, and shall award to the party substantially succeeding and prevailing in said appeal, his, her or their costs of said appeal against the opposite party, and shall have power to enforce the judgment so rendered by execution, as other judgments are enforced, and also by summary proceedings and attachments for non-payment thereof.

Proceedings in case of appeal.

8. *And be it enacted*, That the business of said company shall be managed by a board of directors of not less than five who shall be stockholders therein and a majority of whom shall be residents of this state, and a majority of directors chosen shall be a quorum, and there shall be an election of directors within one year from the filing of the

Directors to be stockholders.

articles of association and annually thereafter at such time as shall be fixed by the by laws of such company, three weeks notice thereof shall be given by publication in a newspaper in general circulation in such city, town or village, the stockholders shall be entitled to vote either in person or by proxy.

Election of officers.

9. *And be it enacted*, That the officers of such company shall be a president who shall be one of the directors, a secretary and treasurer and such other officers, agents and servants as the board of directors shall deem necessary, such officers shall be elected annually by the directors and shall be required to give bond with penalty and surety to the approval of by said board of directors, conditioned for the faithful discharge of their respective duties.

Capital stock may be increased.

10. *And be it enacted*, That the amount of the capital stock shall be fixed by the company, but may be increased by a vote of the stockholders at any annual meeting, and such capital stock be divided into shares of not more than one hundred dollars each.

Penalty for injury done to works.

11. *And be it enacted*, That if any person or persons shall wilfully do or cause to be done, and act or acts whatever, thereby to injure any reservoir, conduit pipe, cock, machine, or structure whatsoever, or anything appertaining to the works of said corporation whereby the same may be stopped, obstructed or injured, the person or persons so offending shall be considered guilty of a misdemeanor, and being thereof convicted, shall be punished by fine not exceeding three hundred dollars, or imprisonment at hard labor not exceeding two years, or both; *provided*, such criminal prosecution shall not in anywise impair the rights of action for damages by a civil suit, hereby authorized to be brought for any such injury as aforesaid, by and in the name of said corporation in any court of this state having cognizance of the same.

Proviso.

May lay pipes beneath public roads, streets, &c., free from charge.

12. *And be it enacted*, That such company be and they are hereby fully authorized and empowered to lay their pipes beneath such public roads, streets, avenues and alleys, as they may deem necessary for the purposes aforesaid, free from all charge to be made by any person or persons, or body politic whatsoever, for said privilege, and also such hydrants at the crossings or intersections of said streets and alleys; *provided*, that the said pipes shall be laid at least three feet below the surface of the same, and shall not in

Proviso.

anywise unnecessarily obstruct or interfere with the public travel or damage public or private property; *and provided*, Proviso. that the consent shall be obtained of the corporate authorities, if any there be, of any town through which the same may be laid.

13. *And be it enacted*, That said company may sell and dispose of the water issuing from their reservoirs, aqueducts or pipes for such price or prices or quarterly or annual rents, and such restrictions as they may think proper. May sell and dispose of the water.

14. *And be it enacted*, That such company shall commence the construction of the proposed water works within six months from the date of their organization, and shall complete the same within two years from the date of commencement. Time for commencing and completion of works after organization.

15. *And be it enacted*, That any aqueduct company now in existence under any special charter in this state shall have the right from time to time to add to and extend their works to such extent as may be necessary to carry out the purposes of its corporation, and for that purpose to take all such lands and divert all such streams of water, in the manner hereinbefore provided, as shall be necessary for that purpose. Any aqueduct company now in existence may extend works, &c.

16. *And be it enacted*, That this act shall go into effect immediately.

Approved April 21, 1876.

CHAPTER CXCIV.

An act to amend the act entitled "An act to incorporate trustees of religious societies," approved April ninth, anno domini eighteen hundred and seventy-five.

WHEREAS, The act entitled "A further supplement to the act Preamble. entitled 'An act to incorporate trustees of religious societies,'" approved April fourth, anno domini eighteen hundred and seventy-four, providing a method for the incorporation of Baptist churches in this state, was afterward