

ACTS

OF THE

EIGHTY-NINTH LEGISLATURE

OF THE

STATE OF NEW JERSEY,

AND

TWENTY-FIRST UNDER THE NEW CONSTITUTION.



NEWARK, N. J.:

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CHAPTER DV.

An Act to incorporate the Orange Water Company.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That John L. Blake, Charles A. Lighthipe, William H. Vermilye, Stephen W. Tichenor, William Pierson, Junior, and Isaac J. Everitt, and such other persons as may hereafter be associated with them, shall be and are hereby ordained, constituted and declared to be a body politic and corporate in fact and in name, by the name of "The Orange Water Company;" and by that name shall have continual succession.
2. *And be it enacted*, That the capital stock of said company shall be one hundred thousand dollars, with the privilege of increasing the same to three hundred thousand dollars, as hereinafter provided; which stock shall be divided into shares of fifty dollars each, and be deemed personal property, and be transferable in such manner as the corporation by their by-laws shall direct; and that in any election or meeting of the stockholders, each stockholder shall be entitled, either in person or by proxy, to one vote for each share of stock actually held by him fifteen days before such election or meeting.
3. *And be it enacted*, That the above named persons, or a majority of them, shall be commissioners to open books and to receive subscriptions to the said capital stock, at such time or times, and place or places, in the county of Essex, as they, or a majority of them shall appoint, by at least fifteen days' previous notice given in one or more of the newspapers published in said county; that, at the time of subscribing, ten per cent. of the par value of each share of stock shall be paid to said commissioners; and that as soon as one hundred shares of said stock shall be subscribed for as aforesaid, the said commissioners, or a majority of them, shall, in like manner, appoint a meeting of the stockholders to be held at some place in said county; and that, at such meeting, the said stockholders shall, by ballot, elect seven of their own number, being residents of said state of New Jersey, to be the directors of the said company until the next annual election; that the said commissioners, or a majority of them, shall be the inspectors of the said first election, and shall

Names of corporators.

Amount of capital stock.

Commissioners to receive subscriptions.

Election of directors.

certify under their hands the names of the directors so elected, and shall appoint the time and place of the first meeting of said directors, and shall deliver unto such directors, or a majority of them, when so met, the subscription books, together with the moneys already paid in on account of such subscription, after deducting their own expenses and a reasonable compensation for their services; and that thereupon, all the powers of such commissioners shall cease.

4. *And be it enacted*, That the annual election for directors shall be held on the second Monday in January, at such time and place in said county as the board of directors may previously appoint, by at least seven days' notice given in a newspaper as aforesaid, and shall be held by three inspectors, not being candidates at such election, to be appointed by said directors; and that, in such election, the polls shall continue open for at least one hour, and the voting shall be by ballot; and that such directors shall serve for one year, and until others are elected in their stead; and if it shall so happen that an election for directors shall not take place on the day herein appointed for the purpose, the corporation shall not be deemed to be dissolved, but the directors for the time being shall appoint a future day for such election, giving the same notice thereof as is hereinbefore required.

Annual election.

5. *And be it enacted*, That four of said directors shall constitute a quorum for the transaction of business; and that at their first meeting after any election, they shall choose a president from their own number; and in case of the death or resignation of such president, or any other member of their board, the remaining members of the said board shall have power to fill the vacancy or vacancies until the next annual election; and that they may from time to time appoint and remove a secretary and treasurer and other necessary officers or agents, and determine their compensation, and require of them security for the faithful performance of their duties; and that they may make, alter and repeal by-laws and rules for their own government, and the government of their officers and servants and the management of their business and affairs, and for regulating and controlling the use of water which may be furnished by them as hereinafter provided; and that they shall have power to call in the remainder of the stock subscribed for by installments not exceeding five dollars upon each share, and payable not less than thirty days apart, by giving at least thirty days previous notice thereof in a newspaper as aforesaid; and they shall have power to forfeit any

Duties and powers of directors.

share or shares upon which default may be made in the payment of any balance due thereon, at the times and in the manner so appointed; such forfeiture to include all previous payments made thereon, and to be for the use and benefit of the corporation; and that the said directors shall have power, in their discretion, from time to time, to increase the capital stock to any amount not exceeding three hundred thousand dollars, to be paid by installments and in the manner hereinbefore provided for the original capital, and subject to the like forfeiture; and that whenever a subscription to said additional stock shall be authorized by the board of directors, the stockholders for the time being shall be first entitled to subscribe for said stock in a ratable proportion of the stock then held by them.

Objects of corporation.

6. *And be it enacted*, That the object of said corporation is hereby declared to be the procuring of a supply of good and wholesome water for the use of the people of Orange and its vicinity, in the county of Essex; and that, to this end, the said company are hereby authorized and empowered to purchase, take, hold, enjoy, convey and dispose of all such real and personal estate as may be necessary therefor, or which may be taken in the payment of debts, and to secure the right to use, divert and appropriate any springs, streams or ponds of water in the county of Essex, and to contract with other parties or corporations for such supply of water, and to construct and maintain reservoirs, wells, aqueducts, buildings, machinery and apparatus of every kind that may be necessary or useful for such purpose; and that it shall at all times be lawful for the officers, agents, servants and employees of said company to enter upon any lands and real estate in said county of Essex, and survey, excavate and bore for water, and examine the quality thereof, and locate all and singular such reservoirs, wells, aqueducts, buildings, machinery and apparatus, and all other necessary works and appendages to the same, doing no unnecessary damage to private or other property, and to lay down, examine, take up, replace and repair pipes and other conduits beneath the streets, alleys, lanes and other places of Orange and its vicinity, and to place hydrants and fire-plugs in such streets, alleys, lanes and places free of all charge, and to tap the main pipes, and insert, repair and remove branch pipes, as to said company may seem advisable; *provided*, that public travel shall at no time be unnecessarily impeded, and that, after the completion of any such work, the said streets,

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alleys, lanes and places shall be left in as good condition as the same were in before the commencement of such work.

7. *And be it enacted*, That if it shall become necessary, in the opinion of said directors, to lay pipes through any private lands in said county of Essex, or if any such private lands shall be required for erecting reservoirs or other works thereon, and no agreement can be made with the owner or owners thereof as to the amount of compensation to be paid therefor, by reason of the unwillingness of said owners, or any of them, to accept such compensation as said directors may deem reasonable, or by reason of the absence or legal incapacity of said owners, or any of them, or for any other cause, it shall be the duty of either of the judges of the court of common pleas of the county in which said lands lie, upon application to him by said directors, and after thirty days' previous notice in writing of such application to the persons interested, if known to said directors and in this state, or if unknown or out of the state, after publication thereof for any term not less than thirty days in a newspaper published in said county to appoint three disinterested appraisers from the said county, to determine the compensation to be paid to the several owners, for the laying of said pipes through said lands or the price to be paid for such lands, as the case may be; and it shall be the duty of said appraisers, or a majority of them (after having taken an oath or affirmation faithfully and impartially to discharge the trusts herein reposed in them, and after having carefully viewed the premises), within twenty days after their appointment, to deliver to said directors a written appraisement under the hands and seals of them, or a majority of them, of the award which they shall have made, containing a general description of the lands through which the pipes are to be laid, or the lands required for the erection of reservoirs or other works as aforesaid, which appraisement the directors shall cause to be recorded in the registry of deeds for the county in which said lands lie, as the case may require; and upon payment or tender by the said directors to such owner or owners, as aforesaid, or some one of them, of the sum or sums awarded in such appraisement, if any, then the said directors shall have the right to lay said pipes through the lands aforesaid, or the said directors shall be deemed to be seized in fee simple of the lands required for the erection of the said reservoirs or other works as aforesaid; and in case any owner or owners of such land shall be feme covert, under age, non compos mentis, or out of this state, then and

Proceedings in
case of dis-
agreement.

in that case it shall be sufficient for said directors to pay the amount which may have been appraised as aforesaid into the court of common pleas of said county in which said lands lie, as the case may require, for the use of the party or parties entitled to the same; the costs of all which proceedings shall be taxed by some one of the judges of the court of common pleas of the said county, and paid by the said directors; and that a copy of said award, certified by the clerk or register of said county, shall at all times be considered as plenary evidence of the right of the said company to have, hold, use, occupy, possess, enjoy and convey the lands so described.

Parties dissatisfied may appeal.

8. *And be it enacted*, That in case the directors, or any owner or owners of the said lands, shall be dissatisfied with the award of the appraisers named in the preceding section, or any part of such award, and shall appeal to the judge of the circuit court of the county in which said lands lie, at the next term of said court after the filing of the said award, the said circuit court shall have power, upon good cause shown, to set the said award, or any part thereof, aside, and thereupon to direct a proper issue for the trial of the said controversy to be formed between the said parties, and to order a jury to be struck, and a view of the premises to be had, and the said issue to be tried at the next circuit court to be holden in said county, upon the like notice, and in the same manner as other issues in said court are tried; and it shall be the duty of the jury to assess the value of said land, or the damages sustained, and if they shall find a greater sum than the said appraisers shall have awarded in favor of the said owner or owners, then judgment therefor, with costs, shall be entered against said company, and execution awarded therefor; but if the jury shall be applied for by the said owner or owners, and shall find the same or a less sum than the directors shall have offered, or the said appraisers awarded, then the said costs shall be paid by the appellant or appellants, and be deducted out of the said sum found by the said jury, or be collected upon execution, as the court shall direct; but such appeal shall not prevent the directors from taking said lands, or laying pipes through said lands, upon the award of the appraiser, the value or damages being first paid or tendered as aforesaid.

May enter upon lands.

9. *And be it enacted*, That whenever it shall become necessary to make any repairs or alterations in any pipes or works of said company, which may be laid or built in or through any private lands, or to examine the same, it shall be lawful

for the said directors, with their workmen and agents, and with necessary vehicles, tools and implements, to enter upon said lands and make the necessary examination, repairs and alterations, doing no unnecessary damage; *provided always*, Proviso. that nothing in this section contained, shall be so construed as to protect the said company or their workmen or agents, from any action that may be brought against them by the owner or owners of said lands for any damages which they may willfully or wrongfully do.

10. *And be it enacted*, That the directors of said company Powers of directors. and their officers, agents and employees, are hereby authorized and directed, at all reasonable hours, to enter any dwelling or other place where the water of said company is taken or used, and where unnecessary waste thereof is known or suspected, and examine and inquire into the cause thereof; and the said directors, officers, agents and employees, shall have full power to examine all service pipes, stopcocks and other apparatus connected with the water supply or drainage works, for the purpose of ascertaining whether the same are of the character and dimensions, and fixed in the manner directed in the permits issued therefor; and if any person or persons shall refuse to permit such examinations, or oppose or obstruct such director, officer, agent or employees in performance of such duty, he, she, or they so offending shall be liable to such penalty, not exceeding ten dollars for each offence, as may be imposed by any justice of the peace of the said county of Essex, before whom complaint may be made, by and in the name of said company, and the supply of water may also be shut off until the required examination is made, and such alterations and repairs as may be found necessary shall be completed.

11. *And be it enacted*, That if any person shall willfully Penalty for injuring property. do or cause to be done, any act or acts whatsoever to injure any engine, machine, reservoir, pipe, fire-plug, hydrant, or structure whatsoever, or anything appertaining to the works of said company, or whereby the same may be obstructed, stopped, or injured, or shall willfully or maliciously draw off or waste the water from any fire-plug or hydrant, the person so offending shall be deemed guilty of a misdemeanor, and, being thereof convicted, shall be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, or both; *provided*, Proviso. such criminal prosecution shall not in any wise impair the right of action for damages by a civil suit; and the said corporation are hereby

authorized to bring an action and recover for damages by a civil suit for any such injury aforesaid, by and in the name of said corporation, in any court in this state having cognizance of the same.

Penalty for polluting or adulterating water.

12. *And be it enacted*, That if any person or persons shall willfully pollute or adulterate the waters in any reservoir, aqueduct, conduit, or race-way erected, built, or laid down under the provisions of this act, every person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding three years, or both, at the discretion of the court before whom such conviction shall be had.

May rent water.

13. *And be it enacted*, That the company may sell and dispose of the water so procured by them, upon such conditions, and for such rents, as they may from time to time prescribe; and that such rents shall draw interest at the rate of seven per cent. per annum from and after the times when they shall become due.

Books of account to be kept.

14. *And be it enacted*, That the president and directors of said company shall declare and make such dividends as they may deem prudent and proper from time to time, out of the net profits of their business; and the said corporation shall cause to be kept at their office proper books of account, in which shall be truly and fairly entered all the transactions of the company, which books shall be at all times open within the usual hours of business for the inspection of the stockholders.

May borrow money.

15. *And be it enacted*, That the said company shall have power to borrow such sum or sums of money from time to time, as shall be necessary to build, construct, lay down, or repair said water-works, fixtures, pipes, and apparatus, and furnish said company with all necessary engines and machinery for the uses and objects of the said company, and to secure the payment thereof by bond and mortgage, or otherwise, on the said water-works, engines, machinery, pipes and fixtures and appurtenances of or belonging to said company, at a rate of interest not exceeding seven per cent. per annum: *provided*, that it shall not be lawful for said company to plead any statute or statutes of this state against usury in any suit in law or equity instituted to enforce the payment of any bond or mortgage executed under this section.

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

Approved April 6, 1865.