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# ACTS

OF THE

EIGHTY-SECOND LEGISLATURE

OF THE

# STATE OF NEW JERSEY,

WILLARD W. CUTLER,  
AND  
COUNSELLOR AT LAW,  
MORRISTOWN, N. J.

FOURTEENTH UNDER THE NEW CONSTITUTION.



MORRISTOWN, N. J.:  
PRINTED BY LOUIS C. VOGT.  
.....  
1858.

Former acts  
repealed.

41. *And be it enacted*, That all acts or parts of acts, inconsistent herewith, be, and the same are hereby repealed; this act shall take effect on and after the second Monday in April.

Approved March 8, 1859.

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## CHAPTER LV.

AN ACT to incorporate the Rahway Water Company.

Names of  
corporators.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That Joseph T. Crowell, Thomas H. Shafer, Joseph S. Smith, Patrick Clark, and Samuel Williams, and their associates, and all other persons who shall become subscribers to the capital stock hereby created, and their successors in office, shall and they are hereby incorporated and made a body politic and corporate, in fact and in law, by the name of "The Rahway Water Company."

Amount of  
capital  
stock.

2. *And be it enacted*, That the capital stock of said company shall be fifty thousand dollars, with liberty to increase the same to one hundred thousand dollars, which shall be divided into shares of twenty-five dollars each, and paid in by the stockholders at such times, in such manner, in such instalments, and upon such notice as the directors of said company, by their by-laws or otherwise may direct or appoint; and in case of the failure of any stockholder to

pay his or her instalments at the time and place appointed for the payment thereof, or within thirty days thereafter, such stockholders shall incur a forfeiture of his or her share or shares, and of all previous payments thereon, for the use of the company; and such shares shall be deemed personal property, and be transferable in such manner as the said company, by their by-laws, may appoint; *provided*, Proviso. that notice in writing, or by advertisement, shall be given to each of the stockholders of the time when the shares are required to be paid in.

3. *And be it enacted*, That the above named persons, or a majority of them, shall be commissioners to open books and receive subscriptions to the capital stock of said company, at such time or times, and place or places, in the city of Rahway, as they, or a majority of them, may think proper, giving notice thereof at least ten days prior to the time for receiving subscriptions, by publishing the same in some newspaper published and circulated in said city; and that the said commissioners, or a majority of them, shall be authorized to declare what amount shall be paid on each share at the time of subscribing, and to appoint some suitable person from among them as treasurer, to receive the same; and as soon as one hundred shares of said stock shall be subscribed, shall give like publication for a meeting of the stockholders, to choose seven directors, a majority of whom shall reside within the limits of the city of Rahway, and shall form a quorum for transacting business, and who shall hold their offices for one year, and until others shall be elected.

Commissioners to receive subscriptions.

4. *And be it enacted*, That the said election shall be certified by the said commissioners, or a majority of them, who shall thereupon deliver over to said directors the subscription books and moneys paid in, first deducting the expenses of the said commissioners, at such time and place as shall be appointed by the said commissioners, or a majority of them, notice whereof shall be given to the said directors, and who shall be thereupon authorized to hold their first meeting.

Subscription books and money to be delivered to directors.

Election of directors.

5. *And be it enacted*, That the affairs of the company shall be managed by seven directors, to be chosen by the stockholders annually, at such time and place in said city, in such manner, and upon such notice, as by the by-laws of said company may be directed, who shall serve for one year, and until others are chosen in their stead; and the said directors shall, from time to time, elect a president from their body, and shall also elect and employ such other officers as they may deem convenient and necessary, and make all by-laws, rules, and regulations as they may think proper, not inconsistent with the constitution or laws of this state or of the United States.

What real estate may be held.

6. *And be it enacted*, That the said company shall have power to purchase, hold, and enjoy such real and personal estate as may be necessary for the object of this incorporation, or may be taken in payment of debts, and to construct, keep, and maintain such wells, reservoirs, aqueducts, pipes, water-works, fixtures, and apparatus as may be necessary or useful to supply the city of Rahway with good and wholesome water, in quantities sufficient for all the purposes which may conduce to the safety of said city, and to the health and comfort of the citizens.

Company authorized to make contracts for supply of water.

7. *And be it enacted*, That the said company be and they are hereby authorized and empowered to make contracts with persons and corporations for the supply, use, and preservation of water, and to erect, construct, and maintain all works necessary or convenient to the purposes of this act, and to lay down pipes and other conduits, beneath the streets, alleys, lanes, and other places in the city of Rahway and vicinity, free of all charge, and to place such hydrants and fire plugs as may be necessary, subject to such regulations as the said company may from time to time agree upon and adopt, the tapping of the mains and insertion and placing of all branch pipes to be under the sole control of the said company, by such persons as they may employ and appoint; *provided*, that the public travel upon the streets, lanes, and alleys shall at no time be unnecessarily affected or impeded in the laying or repairing of pipes, or

Proviso.

the erection and construction of fire plugs or hydrants or other necessary or proper work; and after the completion of any work, the streets, side or cross walks shall be left in as good condition as before the commencement of any such work; and no private lands shall be in any way injured or defaced without permission first obtained from the owner or owners thereof.

8. *And be it enacted*, That if any person shall wilfully do or cause to be done, any act or acts whatsoever to injure any engines, 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 wilfully and 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 fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding six months, or both; *provided*, 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  
injuring  
works.

Proviso.

9. *And be it enacted*, That if it should become necessary, in the opinion of said directors, to lay pipes through any private lands in said city, or if any 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 for the laying said pipes through said or the piece of such lands, as the case may be, by reason of the unwillingness of said owners, or any of them, to accept such compensation or price as said directors may deem reasonable, or by reason of the absence or legal incapacity of said owners, or any of them, it shall be the duty of either of the judges of the court of common pleas of the county of Middlesex, upon application to him by said directors, and after ten days'

Proceedings  
in case com-  
pany and  
owners can-  
not agree.

previous notice in writing of such application to the persons interested, if known and in this state, or if unknown or out of the state, after publication thereof for any term not less than twenty days, in a newspaper published in said city of Rahway, to appoint three disinterested appraisers from the county of Middlesex, to determine the compensation to be paid 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 (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 the said directors a written appraisalment, under the hands and seals of them, or a majority of them, of the award they have made, containing a full description of the lands through which the pipes are to be laid, or of the lands required for the erection of reservoirs or other works as aforesaid, which appraisalment the said directors shall cause to be recorded in the registry of deeds for the county of Middlesex, or Union, or both, 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 awarded in such appraisalment, 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 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 lands shall be feme covert, under age, non compos mentis, or out of this state, then and 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 the counties of Middlesex and Union, or either of them, 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 county of Middlesex, and paid by the said directors.

10. *And be it enacted*, That in case the directors or the owner or owners of the said land shall be dissatisfied with the award of the appraisers named in the preceding section, and shall apply to the judge of the circuit court of the county of Middlesex, or Union, as the case may require, at the next term of said court after filing of the said award, the said court to which application may be made shall have power, upon good cause shown, to set the same 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 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 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 said 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 to be paid by the applicant or applicants, and either deducted out of the said sum found by the said jury, or execution awarded therefor, as the court shall direct; but such application shall not prevent the directors taking or laying pipes through said lands upon the award of the appraisers, the value or damages being first paid or upon refusal to receive the same upon the tender thereof, or the owner or owners thereof being under any legal disability, the same being first paid into court as herein before directed.

Parties dissatisfied may appeal.

11. *And be it enacted*, That the directors of said company, and all engineers, superintendents, or inspectors in their service, 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 un-

Company authorized to examine premises in cases of waste, &c.

necessary waste thereof is known or suspected, and examine and inquire into the cause thereof; and the said directors, engineers, superintendents, and inspectors 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 officer 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 magistrate of said city before whom complaint may be made, and the supply of water shall also be shut off until the required examination is made, and such alterations and repairs are completed as may be found necessary.

Repairs to  
works.

12. *And be it enacted*, That whenever it shall become necessary to make any repairs or alterations in any pipes which may be laid through any private lands, 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 repairs and alterations, doing no unnecessary damage; *provided always*, 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 damage which they may wilfully or wrongfully do.

Proviso.

Penalty for  
polluting  
water.

13. *And be it enacted*, That if any person or persons shall wilfully 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 misdemeanor, and on conviction thereof shall be punished by 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.



14. *And be it enacted*, That every director, president, and treasurer, and all such other officers as the said directors may appoint, shall, before he or they act as such, take an oath or affirmation for the true and faithful execution of his or their office. Officers to take oath.

15. *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 the said water works; 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. Dividends.

16. *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 centum 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. Company may borrow money.

17. *And be it enacted*, That the rents for the use of the water which said company may supply shall draw interest at the rate of seven per centum per annum from the time they become due. Water rents to draw interest.

18. *And be it enacted*, That the owner and occupier of any house, tenement, or lot shall each be liable for the payment of the price or rent fixed by the directors for the use of the water by such occupier, and such price or rent shall be a lien upon such house, tenement, or lot, and shall Owners and occupants, each liable for rent.

be collected by execution against the owner or occupier of such house, tenement, or lot issued upon judgment obtained for the amount of said price or rent due as aforesaid, in the name of said corporation, in any court of this state having cognizance thereof.

Contractors  
to give  
security.

19. *And be it enacted*, That every person who shall enter into any contract with said directors for the supply of materials or the performance of any work or labor in and about the building, erection, or repairing of said water works or any part thereof, or any machinery therefor, shall give satisfactory security for the faithful performance of his contract, according to its terms, and no director shall be interested directly or indirectly in any contract relating to said work.

Materials for  
work, ex-  
empt from  
execution.

20. *And be it enacted*, That all materials procured, or partially procured, under contract with the directors, shall be exempt from execution, but it shall be the duty of the directors to pay the moneys due to such contractor for such materials to the judgment creditor of the contractor under whose execution such materials might otherwise have been sold, upon his producing to them due proof that his execution would have so attached, and such payment shall be held as valid payment on the contract.

City may  
purchase  
works.

21. *And be it enacted*, That it shall be lawful for the city of Rahway, at any time after the erection and completion of said water works, in its corporate capacity, to purchase from said company said water works, machinery, pipes, and fixtures, and all the appurtenances thereunto belonging, and all the right, title, and interest of said company of, in, and to the same, upon such terms and conditions as to time and payment as may be agreed upon by and between said city and said company, their lawfully authorized agents or attorneys.

Approved March 8, 1859.