

L A W S

OF THE

STATE OF NEW YORK,

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PASSED AT THE

EIGHTY-SECOND SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY FOURTH, AND ENDED APRIL NINETEENTH, 1859, IN THE
CITY OF ALBANY.



ALBANY :
W. C. LITTLE & COMPANY,
LAW BOOKSELLERS, 515 BROADWAY.
1859.

electors at their last meeting. Every person owning lands to be benefited by said work, shall be entitled to one vote. In case the person so offering to vote shall be challenged, he shall swear that he does own such lands.

SECTION 9. Any person who shall put any obstruction in said ditch or stream of water, shall forfeit the sum of twenty-five dollars for each offense, to be recovered by the said commissioners, in section one appointed, or their successors in office, in any court having cognizance of the same, with costs of suit; and it shall be the duty of said commissioners last above referred to, to prosecute any person who shall so obstruct the same; and the said commissioners are hereby authorized and required to remove any such obstruction as soon as the same shall be brought to their knowledge.

Obstructions, &c.

SECTION 10. After the said work shall have been completed, and whenever the same shall need any additional work to keep the same in repair, the said commissioners, in section one appointed, or their successors in office, shall be authorized to expend such sums of money as shall be necessary to repair and clear out the same, and which shall be assessed upon the persons to be benefited thereby, in the same manner as is heretofore provided, and collected in the same manner.

Repairs.

SECTION 11. The act entitled "An act making provision for draining a certain tract of swamp land and bog meadow, in the towns of Stanford and Northeast, in the county of Dutchess," passed February twenty-eighth, eighteen hundred and four, is hereby repealed.

Chap. 336.

AN ACT to incorporate the Elmira Water Company.

Passed April 14, 1859; three-fifths being present.

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

SECTION 1. Elijah P. Brooks, William T. Post, William Beach, John T. Rathbon, Gabriel L. Smith, Arcalons Wyckoff, Eli Wheeler, and all such persons as are

Body corporate.

or may hereafter be associated with them, are constituted a body corporate by the name of the Elmira Water Company.

Capital
stock.

§ 2. The capital stock of said company shall be fifty thousand dollars, to be divided into shares of one hundred dollars each, and the said company are hereby empowered to increase their capital stock at any time, not to exceed one hundred thousand dollars.

Books of
subscription.

§ 3. Books of subscription for the capital stock of said corporation shall be opened under the direction of the directors hereinafter named, subject to such rules and regulations as they shall prescribe, and the stock shall be considered personal property and shall be assignable and transferable on the books of the company.

Directors.

§ 4. The business of said corporation shall be managed by seven directors, who shall be stockholders, and who shall hold their offices for one year or until others are chosen in their places. The directors shall be chosen annually, on the first Monday in May, at such time of day and place, in the village of Elmira, as the directors may appoint. The first election shall be held on the first Wednesday of May, eighteen hundred and sixty. Two weeks' notice of such election shall be given, by publication, at least once in each week, in one newspaper published in Elmira, previous to such election. Each stockholder shall be entitled to one vote upon each share of stock held by him or her, for at least twenty days previous to such election. Voting shall be by ballot and may be in person or by proxy.

Election,
notice of.

President.

§ 5. The directors shall annually appoint a president and such other officers as they shall deem necessary, who shall hold their offices until others are appointed in their places; and they may make and ordain such by-laws and regulations as they may deem necessary and proper for the management of their business and for the accomplishing the purposes of the corporation, not inconsistent with the provisions of this act and laws of this state.

Payment of
subscription.

§ 6. The directors may require payment of subscription to the stock at such times and in such proportions as they may see fit, under the penalty of forfeiting all stock and previous payments thereon, and they may sue for and recover all such subscriptions. Notice of the

time and place of said payments shall be published for three weeks previous to said time, at least once in each week, in one newspaper in said village.

§ 7. The persons named in the first section shall be the first directors and shall hold their offices until the first Wednesday of May, eighteen hundred and sixty, and until others are chosen in their places; and in case of vacancy in the direction by reason of the death or resignation of any director, or of his ceasing to be a stockholder, it may be filled by the remaining directors, until the next annual election or until some other person shall be elected to fill the same. The directors herein named may appoint three persons, who shall be stockholders, to be inspectors at the first election, after which the stockholders shall choose three such inspectors at the annual election. If no inspectors are chosen the directors may appoint three, from time to time. The directors may have power to remove all officers appointed by them and appoint others in their places, and fill all vacancies in the offices. If at any time an election of directors shall not take place on the day appointed by this act, the corporation shall not for that cause be dissolved, but an election may be held on another day, in such manner as shall be prescribed by the directors or provided for by the by-laws.

Directors
hold office,
how long.

Inspectors
of election.

§ 8. For the purpose of supplying the village of Elmira with pure water the said company may purchase, take and hold any real estate, and by their directors, agents, or other persons employed, may enter upon the lands of any person or persons which may be necessary for said purpose, and may take the water from any ponds, springs, rivers, streams or lakes, and divert and convey the same to the said village, and may lay, construct and repair pipes, conduits, aqueducts, reservoirs, or other works and machinery necessary or proper for said purpose, upon any lands so entered upon, purchased, taken or held, and may as aforesaid, enter upon any lands, streets, highways, roads, lanes, or public squares through which they may deem it proper to convey the water so taken, and lay, construct, repair and replace any pipes, conduits or other works for that purpose, leaving the said lands, streets, highways, roads,

May hold
real and
personal
estate.

lanes and public squares in the same condition, as nearly as may be, as they were before said entry.

Map and
survey to be
made.

§ 9. Before entering, taking or using any land for the purpose of this act, the directors of this company shall cause a survey and map to be made of the lands intended to be taken or entered upon for any of said purposes, and by which the land of such owner or occupant intended to be taken or used shall be designated, and which map shall be signed by the engineer making the same and by the president of said company, and be filed in the office of the clerk of Chemung county. The company, by any of its officers, agents or servants, may enter upon any lands for the purpose of making any examination and of making said survey and map, doing no unnecessary damage.

Commis-
sioners may
be appoint-
ed by
county
judge.

§ 10. In case the company cannot agree with the owners and occupants of any lands or water intended to be taken or used as aforesaid, for the purchase thereof, the directors may apply to the judge of the county of Chemung for the appointment of three commissioners by whom the compensation to be paid for damages suffered or to be suffered by any person or persons, by reason of taking said lands and water and constructing any of the works of said company, shall be ascertained and determined; and in case of death, resignation, refusal or disability to act, of any of said commissioners, the judge may appoint others in their places. The commissioners shall cause a notice of at least twenty days, of the time and place of meeting, to be served upon such of the owners of said land and water as reside in this state, which may be served personally, or in their absence from their dwellings or places of business, by leaving the same thereat with some person of suitable age, and in case of any legal disability of such owner to act thereupon, serving notice in like manner upon his or her guardian or person appointed to act for him or her, as hereinafter directed. And in case any of said owners do not reside in this state, such notice shall be given them by publishing the same for four weeks successively in one newspaper published in said village. And if any of said owners shall be married women, insane, infants or idiots, the judge shall appoint some suitable person to attend in their behalf before said

Notice, &c.

commissioners, and take care of their interest in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they may administer the usual oaths to such witnesses. They shall make a written report of all their proceedings within ten days after the hearing before them, showing the sum awarded to each owner or any other person, and return the same to the said judge to be filed on record in Chemung county clerk's office. The company shall pay to each commissioner the sum of two dollars per day for each day necessarily spent by him in the performance of his duties under this act, and to each witness sworn and testifying, who the commissioners shall certify were properly subpoenaed, the same fees as allowed in a court of record.

Report of
commis-
sioners.

§ 11. The said company, or any party to the proceedings, may appeal from any award or determination, provided the party appealing shall, within ten days after such award or determination shall be made, and notice thereof be served on him or them of the appeal; the said judge shall, upon the report of the commissioners, and upon the additional testimony to be taken by them, if he deems the same to be necessary, proceed to hear said appeals, and may confine* the proceedings of the commissioners, in whole or part, or may increase or diminish the amount of compensation awarded by the said commissioners; and if their proceedings in any case have been irregular, the judge may set the same aside and order new proceedings and appraisal, and the said judge may make such orders in reference to the proceedings of the commissioners and of the notices to be given to parties as may not be inconsistent with this act, and as the nature of the case and the interest of the parties may require.

Appeals.

§ 12. Upon the payment or legal tender of the compensation awarded by the said commissioners or (in case of an appeal) by the said judge, the company shall be entitled to enter upon, for the purposes contemplated by this act all the lands, waters and real estate for which said compensation shall be paid or tendered as aforesaid, and to hold and use the same for the said purposes to them and their successors forever. If any person to whom any compensation shall be awarded, or who shall

After pay-
ment, or
legal ten-
der, com-
pany may
enter upon
lands.

* So in original.

be entitled to the same by virtue of said award, does not reside in this state, or shall refuse to receive the sum awarded him, then the said payment may be made by depositing the same to the credit of said person in such bank as may be designated by said judge. If the person to whom compensation is awarded, or who is entitled to receive the same as aforesaid, be under legal disability as aforesaid, payment may be made to his guardian or person appointed as aforesaid by said judge, and if said guardian or person appointed cannot be found by them, by depositing in bank as aforesaid.

May enter upon and occupy such property.

§ 13. The said company shall also take and hold, for the purposes contemplated by this act, all the lands, waters and real estate which they shall in any way legally enter upon and take by virtue hereof, to them and their successors forever.

Laying pipes.

§ 14. In laying pipes, conduits or aqueducts, or constructing or erecting works in the streets, lands or public squares of the village of Elmira, the company shall conform to such reasonable regulations as the board of trustees shall prescribe in said village.

Rules and regulations.

§ 15. The said directors of said company may establish rules and regulations for and concerning the conduct of all such persons as shall use the water from their works, so far as respects the preservation and restraining the waste thereof, and may thereby impose penalties and forfeitures for any violation of said rules and regulations, so that such penalties and forfeitures shall not, in any case, exceed ten dollars, which penalties may be recovered with costs, in the name of the company, before any justice of the peace of the town of Elmira, or police justice of said village. Said rules and regulations shall be published, for two weeks successively, in one newspaper published in said village, and a copy of said rules and regulations, certified by the president of the company, with affidavits of the publication of the same made by any one of the publishers of said paper, shall be received as evidence in all courts and places.

Water for extinguishing fires.

§ 16. The said company shall furnish water to the village of Elmira for the purpose of extinguishing fires, upon such terms as may be agreed upon between them and the president and trustees of said village. And the said company may make any agreements, contracts,

grants and leases for the sale, use and distribution of water, that may be agreed upon between said company and any person or persons, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

§ 17. Any person who shall willfully or maliciously destroy or injure any of the works or property of said company shall be deemed guilty of a misdemeanor, and may be punished by fine or imprisonment, or both, in the discretion of the court, and shall also forfeit and pay to the company treble the damages sustained thereby, to be recovered in any court having cognizance thereof, with costs.

Penalty for destroying property of said company.

§ 18. The corporation hereby created shall possess the powers and be subject to the provisions of title three, chapter eighteen, of the first part of the Revised Statutes, so far as the same are applicable and not otherwise provided for in this act.

Powers of corporation

§ 19. The stockholders of the company hereby created shall be individually liable for the payment of the debts of the said company to an amount equal to the amount of stock held by them respectively, until the whole amount of capital stock so fixed and prescribed as above shall have been paid in, and any stockholder who may have paid any demands against said company, either voluntarily or by compulsion, shall have a right to resort to the other stockholders who were liable to contribution.

Stockholders to be liable, &c.

§ 20. No person holding stock in said company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally liable as stockholders of said company, but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholders accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or person interested in such fund would have been if he had been living and competent to act and hold the stock in his own name.

No person holding stocks as executor, &c.

§ 21. If the directors shall at any time after the organization of said company, determine to increase the capital stock, as herein provided, the books of subscription for

Increase of capital stock.

said additional stock shall be opened in the same manner as provided in section three of this act, and the said directors may require payment of the subscription to the said additional stock in the same manner as provided in section six of this act.

Corporation may borrow money.

§ 22. The said corporation may borrow such sum or sums of money as may be necessary to complete said work and for other purposes authorized by this act, in the whole not to exceed the amount of capital stock actually paid in and expended, and for that purpose may issue and dispose of their bonds for any amount so borrowed, and the company is hereby authorized to mortgage any or all of their corporate property and privileges to secure the payment of such bonds; and the said directors may confer on the holder of any bond they may issue for any money so borrowed, the right to convert the principal due thereon into stock of the said corporation, at any time, not exceeding five years from the date of said bond, under such regulations as the directors may see fit to adopt; and for such purpose the said corporation are authorized to increase its capital stock to the amount so borrowed, whenever the persons or any of them, to whom such money is due, shall elect to convert the same into stock; but nothing herein contained shall be construed to authorize an increase of capital stock of said company beyond the sum of one hundred thousand dollars.

§ 23. This act shall take effect immediately.

Chap. 337.

AN ACT vesting in the United States of America jurisdiction over a certain piece of land in the village of West Troy, in the county of Albany.

Passed April 14, 1859, by a two-third vote.

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

Certain lands ceded to United States.

SECTION 1. The jurisdiction of the state of New York is hereby ceded to the United States of America for the purposes of erecting and maintaining thereon arsenals,