

L A W S
OF THE
STATE OF NEW-YORK,
PASSED AT THE
SEVENTY SECOND SESSION
OF THE
LEGISLATURE,
BEGUN THE SECOND DAY OF JANUARY, AND ENDED
THE ELEVENTH DAY OF APRIL, 1849,
AT THE CITY OF ALBANY.



TROY:
ALBERT W. SCRIBNER AND ALBERT WEST, PRINTERS.
1849.

Chap. 224.

AN ACT to incorporate the *Syracuse City Waterworks Company*.

Passed April 5, 1849.

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

Corporation created. § 1. Oliver Teall, Ira Seymour, John Wilkinson, Hamilton White and Robert Furman and all such persons as may be hereafter associated with them are constituted a body corporate by the name of the *Syracuse City Waterworks Company*.

Capital stock. § 2. The capital stock of said company shall be sixty thousand dollars to be divided into shares of fifty dollars each, which stock shall be considered personal property and shall be assignable and transferable on the books of the company.

Stock how distributed. § 3. A majority of the persons named in the first section of this act shall meet at such place as they may select, on the first Monday of May next, (or such other day as they may select) upon giving four weeks notice of time and place in some newspaper printed in said city, and apportion and distribute the several shares of said sixty thousand dollars of stock to the several persons who may then be the owners of the waterworks company, now furnishing the city of Syracuse with water according to their then existing interests, and shall then also ascertain the cost of the property then belonging to said waterworks company, and the respective interests of the several persons then comprising said company, and upon their conveying all their rights and interests and property in said company to this corporation, at the value so determined, the same shall be considered and taken as so much paid in on the several shares, or on such shares as they may deem proper, which according to this section shall be distributed to the several proprietors of said waterworks company.

Election of directors. § 4. The concerns of said corporation shall be managed by five directors who shall be stockholders, three of whom shall constitute a quorum for the transaction of business, and who shall hold their offices for one year and until others are chosen in their places. The directors shall be chosen annually on the first Monday of May, at such time of day and place in said city as the directors for the time being shall appoint. The first election shall be held on the first Monday of May, eighteen hundred and fifty; three weeks notice of such election shall be given by a publication at least once in each week in two newspapers published in said city, each stockholder shall be entitled to one vote upon each share of stock held by him or her for at least ten days previous to an election: voting shall be by ballot and may be in person or by proxy.

Officers. § 5. The directors shall annually appoint a president, secretary and treasurer, 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 accomplishing the purposes of the corporation.

§ 6. The directors may require payment of subscriptions to the stock at such times and in such proportions as they may see fit, ^{Calls on stockholders} under the penalty of forfeiting all stock and previous payments thereon, and may sue for and recover all such subscriptions. Notice of the time and place of such payment shall be published for four weeks previous to said time, at least once in each week, in two newspapers published in said county.

§ 7. The persons named in the first section shall be the first directors, and shall hold their offices until the said first Monday of May, one thousand eight hundred and fifty, 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 elections. If no inspectors are chosen, the directors may appoint them from time to time. The directors may 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 does 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 any other day, in such manner as shall be prescribed by the directors, or provided for by the by-laws, four weeks previous notice having been given in some newspaper printed in said city. ^{First directors.}

§ 8. For the purpose of supplying the said city of Syracuse with pure and wholesome water, said company may purchase, ^{Real estate may be purchased and entered upon} take and hold any real estate necessary for the purpose, and by their directors, agents, servants, 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 springs, ponds, fountains or streams, which may be approved of by the common council of said city, and divert and convey the same to said city, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs, or other works or machinery necessary or proper for said purpose, upon any lands so entered upon, purchased, taken or held; provided however the said company shall not (without the consent of the owner or person entitled to the use thereof) be authorised to take and divert any such water from any spring, pond, fountain or stream within the city of Syracuse. Said corporation may, as aforesaid, subject to the regulations hereafter mentioned, enter upon any lands, streets, highways, roads, lanes, or public squares, through which they may deem it proper to carry the water from said springs, fountains, ponds, streams,

wells and reservoirs, and lay and construct any pipes, conduits, aqueducts, or other works for that purpose, leaving the said lands, streets, highways, roads, lanes and public squares in the same condition as nearly as may be as they were before said entry; but the said company shall not within the bounds of the said city of Syracuse, lay and construct said pipes, conduits, aqueducts and other works, through any private garden, court-yard, or building lot, without the written consent of the owner thereof.

Survey and map to be made.

§ 9. Before entering, taking, or using any land or water for the purposes 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 each owner and occupant intended to be taken or used shall be designated, and which map shall be signed by the surveyor or engineer making the same, and by the president of said company, and be filed in the office of the clerk of the county of Onondaga. 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.

Provision in case of disagreement.

§ 10. In case the said company cannot agree with the said owners and occupants of any lands or water intended to be taken or used as aforesaid, for the purchase or use thereof, the directors when giving such notice as is hereinafter required to be given by the commissioners may apply to the supreme court at any term or session thereof, held in the Fifth Judicial District, for the appointment of five commissioners by whom the compensation to be paid for the damages suffered or to be suffered by any person or persons, by reason of taking said lands and water and constructing any of the work of said company, shall be ascertained and determined, and in case of the death, resignation, refusal or disability to act of any of the said commissioners the said court may appoint others in their places. The commissioners shall cause a notice of at least twenty days, of the time and place of their meeting, to be served upon such owners of said land and water as can be found 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, then upon serving notice in like manner upon his guardian or person appointed to act for him as hereinafter directed, and in case any of said owners cannot be found in this state such notice shall be given to them by publishing the same for six weeks successively in two newspapers published in said city and if any of said owners be married women insane, infants or idiots the said court shall appoint some suitable person to attend in their behalf before said commissioners and take care of their interests in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them and they or any one of them may administer the usual oath to such witnesses.

They shall make a written report of all their proceedings, containing the testimony taken by them, and showing the sum awarded to each owner or other person and return the same to said court to be filed of record. The company shall pay to each commissioner the sum of three dollars per day, for every day necessarily spent by him in the performance of his duties under this act and to each witness sworn and testifying, or if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed the sum of fifty cents per day and four cents per mile travel, going and returning if living more than three miles from the place of meeting.

§ 11. The said company or any party to the proceedings of the commissioners, may appeal from any award or determination of the commissioners, provided the party appealing shall within ten days after any such award or determination shall be made, give written notice of the appeal to the other party or parties interested in the same, and the said court shall examine the report of the commissioners and if their proceedings in the case have been irregular the court may set the same aside and order new proceedings and appraisement and the said court may make such orders in reference to the proceedings, of the commissioners and of 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; and the said commissioners shall again examine the case and their decision then made shall be final. If at any time after an attempted or actual ascertainment of compensation under this act or any purchase of any lands or water for the use of said company the title acquired to all or any part of said land or water shall fail or be deemed defective, the said company may proceed anew to perfect such title by procuring ascertainment of the compensation proper to be made to any person or persons whose title claim or interest in or lien upon such lands shall not have been compensated and extinguished according to law and by making payment thereof in the manner heretofore provided as near as may be.

§ 12. Upon the payment or legal tender of the compensation determined as before provided, the said company shall be entitled to enter upon for the purposes contemplated by this act, all the lands, waters and real estate for which such 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. The said company shall furnish without charge to the parties interested a sufficient supply for domestic purposes. If any person to whom any compensation shall be awarded, or who shall be entitled to the same by virtue of said award, cannot be found or shall refuse to receive the sum awarded to him, then the said payment may be made by depositing the amount of said award to the credit of said person in such bank as may be appointed by said court; a certificate of such deposit, signed by the cashier of the bank, shall be published by said company in two newspapers

published in said city, for four weeks successively immediately after said deposit. 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 the said court, and if said guardian or person appointed cannot be found, then by deposit in bank as aforesaid, which deposit or payment as aforesaid shall be upon such security and re-investment as the said court may direct.

Lands and
waters to be
taken and
held. e

§ 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. 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, not inconsistent with the provisions of this acts, which agreements, contracts, grants and leases shall be valid and effectual in law.

Laying
pipes.

§ 14. In laying pipes, conduits or aqueducts, or constructing or erecting works in the streets, lanes or public squares of the city of Syracuse, the company shall conform to such regulations as the common council thereof shall prescribe.

Rules and
regulations
to be made.

§ 15. The directors of said company may establish rules and regulations for and concerning the use of the water from their works, so as to preserve the same from waste, and may thereby impose penalties and forfeitures for any violation of said rules and regulations, so that said penalty or forfeiture shall not in any case exceed five dollars; (not inconsistent with the constitution and laws of this state and a printed copy thereof shall in the month of May in each year be furnished to each tenement in said city using said water) which penalties may be recovered from the person or persons violating the said rules, with the costs, in the name of the company, before any justice of the peace of said city; said rules and regulations shall be published for three weeks successively in two newspapers published in said city, and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavits of said publication of the same, made by any one of the publishers of said papers or by a foreman in their offices, shall be received as evidence in all courts and places.

Water how
to be fur-
nished and
on what
terms.

§ 16. Said company shall when requested furnish water to the common council of the city of Syracuse for extinguishing fires and other purposes, upon such terms as may be agreed upon between the said common council and the company; and in case they cannot agree, either said common council or said company may apply to the supreme court, as provided in section ten of this act, for the appointment of three commissioners, who shall prescribe the terms upon which water shall be furnished; but in no case shall the amount to be paid by said city exceed the sum of

ten dollars for any or each reservoir or hydrant furnished as aforesaid and said company shall furnish water upon the terms so prescribed for the period of three years, at the expiration of which time a new commission may be applied for by either the common council or the company, and thereafter once in three years, a like application may be made.

§ 17. Any person who shall maliciously or wilfully destroy or injure any of the works or property of said company or who shall maliciously or wilfully commit any act which shall injuriously affect or tend thus to affect the water of said company shall be guilty of a misdemeanor. Penalty.

§ 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. General powers.

§ 19. Nothing in this act shall be deemed or taken to effect or impair or interfere with the rights, privileges and obligations of the city of Syracuse derived or imposed by or under the act of the legislature entitled "An act to supply the village of Syracuse with wholesome water," passed March 27, 1821, or any act subsequently passed amending or altering said last mentioned act. Saving clause.

§ 20. All the stockholders of the company hereby created, shall be severally and individually liable to the creditors of said company, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by said company, until the whole amount of the capital stock shall be paid in and a certificate thereof shall be made and recorded as prescribed in the following section. Liability of stockholders.

§ 21. The president and a majority of the directors, within thirty days after the payment of the last instalment of the capital stock, shall make a certificate of the amount of the capital fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors, and shall within thirty days be recorded in the clerks office of Onondaga county. Certificate to be made and recorded.

§ 22. The stockholders of said company shall be jointly and severally liable for all debts that may be due and owing to all their laborers and servants, for services performed for said company. Liabilities for debt.

§ 23. The indebtedness of said company shall not at any time exceed an amount equal to fifty per cent of its capital stock, and if the indebtedness of said company shall at any time exceed such amount, the directors of said company assenting thereto shall be personally and individually liable for such excess to the creditors of said company. Restriction as to amount of debt.

§ 24. 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 subject to any liability as a stockholder of said company, but the person pledging said stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, Provision relative to executors, administrators, &c.

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 held the stock on his own name. Every such executor, administrator, guardian or trustee, shall represent the shares of stock owned by him as administrator, guardian or trustee, at all meetings of the company, and may vote as a stockholder; and every person pledging his stock as aforesaid, may in like manner represent the same and vote accordingly.

Time limited
as to liability
for debt.

§ 25. No stockholder shall be personally liable for the payment of any debt contracted by said company, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of said debt shall be brought against said company within one year after the debt shall have become due, and no suit shall be brought against any stockholder who shall cease to be a stockholder in said company, for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in such company, nor shall any suit be brought against any stockholder until an execution against the company shall be returned unsatisfied in whole or in part.

Time limited
to furnish
water.

§ 26. In case said company shall not go on and furnish a sufficient supply of good and wholesome water for the use of the said city and the people thereof, within two years from the passage of this act, and continue to furnish a sufficient supply, the common council of said city may give six months written notice to said company to furnish the same, or that application will be made to the supreme court for the appointment of five commissioners as provided in the tenth section of this act, and in case said company shall continue to neglect to furnish said supply until the expiration of said notice, then the property of said company shall be appraised in the manner provided in said tenth section, and upon the payment by said common council to said company, of the sum so determined, then the said common council shall become the owners of said property so appraised, and paid for, and be possessed of all the powers given by this act to the said company.

Charges for
supplying
water.

§ 27. The average amount that said company shall be authorised to charge per annum for the use of said water, shall not exceed the sum of ten dollars for a private family, twenty dollars for a boarding house, and forty dollars for a tavern, where said water shall not be carried higher than twenty feet above the Syracuse level of the Erie canal.

Report to be
made to
common
council.

§ 28. Said company shall annually on the first Monday of January, in each year, report to the common council of the city of Syracuse, in writing, a full statement of the affairs of said company, and the condition of said water works, and of the income and expenditures of said company, and in such detailed form as may be prescribed by the said common council, which reports shall be verified by the oaths of the president and secretary of said company.

§ 29. The common council of the city of Syracuse shall have the right at any time after the expiration of twenty years, to re-sume all the property, rights, powers and privileges of the said Syracuse city water works company, on paying to said company the amount of capital stock actually paid in and expended in said works, with fifteen per cent. annually thereon, deducting therefrom the actual profits annually received by said company, and on such resumption, any payment by said common council, all the said property, rights and privileges, and powers of said company, shall vest absolutely in the common council of the city of Syracuse, and the said company shall by an instrument in writing duly executed by the president and secretary of said company, convey to said common council all the said property of said company in said water works.

The city may after 30 years, purchase the water works.

§ 30. This act shall take effect immediately.

Chap. 225.

AN ACT to settle the claim of the canal fund upon the general fund according to the provisions of the constitution.

Passed April 5, 1849, "three-fifths being present."

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

§ 1. The comptroller, shall on the first day of May next, issue to the treasurer for the use of the canal fund his bonds for the sum of three hundred and eighty-five thousand dollars, bearing interest at the rate of six per cent per annum, payable quarterly and redeemable on the first day of July one thousand eight hundred and sixty-six, to discharge the claim of the canal fund upon the general fund, set forth in the report of the commissioners of the canal fund, for the last fiscal year, being the amount of three hundred and thirty-three thousand, three hundred and thirty-three dollars, and thirty-three cents, stated in the said report to have been paid from the canal fund to the general fund from June first, to September thirtieth, one thousand eight hundred and forty-six, beyond the amount limited by the constitution, with interest on the same from September thirtieth, one thousand eight hundred and forty-six, at the rate of six per cent, to the said first day of May.

Bonds to be issued by the comptroller.

§ 2. The treasurer whenever directed by the commissioners of the canal fund shall advertise the said bonds for sale in the same manner that advertisements are directed by law to be made for loans, and shall sell and transfer the same to the highest bidder or bidders, and the moneys received on such sale shall be applied to the completion of the Erie canal enlargement and the Genesee Valley and Black River canals in the same manner as the said sum of three hundred and thirty-three thousand, three hundred

To be advertised for sale by the treasurer.