

LOCAL LAWS

OF THE

STATE OF INDIANA,

PASSED AT THE

THIRTY-SECOND SESSION

OF THE

GENERAL ASSEMBLY.

By Authority.

INDIANAPOLIS:
JOHN D. DEGREES, STATE PRINTER.
1848.

within sixty days, the said directors shall be authorized to enforce the same by legal proceedings, and it shall be collected without any relief from valuation or appraisement laws.

Sec. 9. The said corporation shall have power to hold real estate for the purposes aforesaid, and to sell and convey the same.

Sec. 10. Whenever a bridge shall be established, either by purchasing or building, the same shall be free and open for passage to all persons whomsoever, with their horses, teams and cattle, and for all purposes whatsoever.

Sec. 11. Any person who shall wilfully injure said bridge, shall be liable to suit by said corporation before a justice of the peace or other court having competent jurisdiction; and the measure of damages in such suit shall not be less than three times the cost of repairing such damage, and the costs of suit.

Sec. 12. The said corporation, if they elect to construct a bridge, may commence the construction of the same within five years, and shall complete the same within ten years from the passage of this act.

Sec. 13. The county of Miami, or any other county in this state, by their board of commissioners, [may] become subscribers to said bridge for such sum as the said board of commissioners may think proper.

Sec. 14. This act to take effect and be in force from and after its passage.

CHAPTER CCXLIII.

An Act to incorporate the Attica Hydrant Company.

(APPROVED FEBRUARY 16, 1818.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be lawful for the citizens of Attica, Fountain county, Indiana, or any other person or persons, to form a company for the purpose of furnishing said town with hydrant water, to be called and known by the name of "The Attica Hydrant Company."

Sec. 2. Said company to be formed by the taking and subscribing of stock by any person or persons, in shares—each share to be twenty-five dollars, to be paid in, as the president and directors of said company may order or direct. And for the purpose of obtaining said stock, William Zeigler, William Crompton, and Norman S. Brown are hereby appointed commissioners to open books to obtain subscriptions for the same. But if either or any of the persons so named as commissioners should refuse or neglect to serve,

the other or others shall hereby be authorized and empowered to select and appoint some suitable person or persons to fill such vacancy or vacancies as may occur.

Sec. 3. Said company to consist of a president, clerk, treasurer, superintendent, and five directors, to be chosen or elected by the stockholders of said company, as soon as five hundred dollars worth of said stock shall be taken and subscribed—notice of said amount of stock having been taken and subscribed to be given by the commissioners named aforesaid, by five written notices, stuck up in as many public places in said town, (or two publications in the newspaper of said town,) naming the time and place for said stockholders to meet, and that they will then and there proceed to elect one president, one clerk, one treasurer, five directors, and one superintendent, to serve for two years from and after the day of said election, or until their successors are elected and qualified into office.

Sec. 4. And for the purpose of conducting said election, the said commissioners are hereby authorized and required to serve—one as judge, one as inspector, and the other as clerk of said election, they (the said commissioners) giving notice by proclaiming that they are now ready to receive votes; when the stockholders present—it being the time then named in the notice given of said election—shall vote by ballot, naming on their tickets the person or persons voted for to fill each office of director, president, clerk, treasurer, and superintendent, and the person or persons having received the largest number of votes for any office, shall be declared duly elected, and a certificate of election shall be made out by the clerk and signed by the judge, inspector, and clerk of said election, and given to the person or persons being so elected; which shall be sufficient authority for said person or persons to enter upon the duties of their respective offices: *Provided*, That the board of directors, in their discretion, may compel the treasurer and superintendent, before entering upon said duties of office, to take an oath to honestly, faithfully, and impartially fulfil and discharge the duties of their respective offices to the best of their knowledge and ability; which oath may be administered by the president of said company, or any other person authorized to administer oaths by law. The board of directors and president may, also, in their discretion, compel, at any time, the superintendent and treasurer to give and enter into bond, with sufficient security, for the safe keeping of all property, money, &c. which may, from time to time, by virtue of their respective offices, come into their hands, and for the disbursing and paying out all moneys according to the direction of said company; which said bond shall be made payable to the State of Indiana, and shall be filed with and recorded by the clerk of said company, and shall have all the binding force and virtue in law of any official bond, given by any officer of this state, and shall have all the remedies of the statutes of Indiana, made and provided for a violation or neglect of the same.

Sec. 6. Said board, when so elected, shall meet within five days after their election (and every three months thereafter, or in their discretion, as they may adjourn from time to time) and proceed to prosecute the duties of their respective offices, and shall have full power and authority to enforce the payment of all stock taken and subscribed, or which may be subscribed or taken thereafter, by each individual, individuals, or companies. Any suits or actions brought by said company, or prosecutions commenced, to be governed by the laws of said state, as made and provided for the collection of debts, or other violations of a similar nature. And said company, when so formed, shall be considered a body corporate, and shall have full power and authority to sue and be sued, plead and be impleaded, and to have all the benefits, and be subject to all the liabilities of any individual, by the laws and rules of said state, governing such cases between private citizens: *Provided*, That all suits shall be commenced in the name of "The Hydrant Company of Attica;" and all actions commenced by the company shall be signed by the president and clerk of said company and a majority of the directors.

Sec. 6. For the purpose of furnishing and obtaining water for the purposes aforesaid, the said company shall have power, and is hereby invested with full authority, to take, use, and convert to the uses aforesaid, any or all (if necessary) the springs or water along or in the branch now passing and running through the north part of said town of Attica, and known as "Brady's branch and springs." *Provided*, That said company shall first use all the water that the springs will furnish or supply, now used for said purpose, and known as "Brady's spring or springs," before using any other water in or of said branch; and that, after using all the water said springs will supply, as aforesaid, and it shall yet be necessary and require more water to furnish and supply said town as aforesaid, said company shall have full power and authority, as aforesaid, to take, use, and convert to the use aforesaid, any larger quantity or all (if necessary) of the water or springs along, in, or passing through said branch.

Sec. 7. But, before using or taking any of the water or springs aforesaid, it shall be necessary and the duty of said board, or the president thereof, to make and enter into contract or contracts with the owner or owners of the said Brady's spring or springs, for the use of the water from said springs, for a term of years, or for all time to come (as said president or board may think best,) either by gift, grant, donation, or for a certain price or sum of money, or other consideration specified or agreed upon by said president or company, and the proper person or persons to contract, sell, give, donate, or convey a good and inalienable right to said water; and if said Brady's spring or springs, as aforesaid, should not be sufficient [to] and supply the water necessary for the supplying of said town, as aforesaid, the said president or company is hereby empowered and authorized to stipulate, contract, and agree with

any and all other person or persons, company or companies, who may be in any way interested in the use, or partial or entire control of any or all other water or springs along or in said branch, and shall, after and according to said contracts, donations, or gifts, have entire use and benefit of all of said water forever thereafter.

Sec. 8. Should said president or company and the person or persons, owner or owners, or others having a real interest in said water or springs along said branch, not be able to make such agreements or contracts between themselves as to insure the use of the said water to said company, and cannot agree upon the damage to be paid, (if any) for the use of said water as aforesaid, the person or persons who may lawfully and legally be the owner or owners of the water or springs aforesaid, or legally and lawfully interested therein, shall, and is hereby authorized to select one good, judicious freeholder, living at least three miles out of and from said town, and who shall be in no way interested, and who shall not be the owner of any real property in said town of Attica; and as soon as said person or persons shall have made such selection, he, she, or they shall notify the president of said company of that fact, and also the day, hour, and place (said place being within the town of Attica) that said appraiser of damages will appear, (said notice, so given, being at least ten days prior to the time so appointed,) when said president of said company, or a majority of the directors thereof, is hereby authorized and required to appoint and select a like appraiser, to meet the one selected as aforesaid, at the time and place appointed by the person or persons aforesaid, whose duty it shall be, when so met, after first taking an oath before some person authorized by law to administer oaths, to faithfully, honestly, and impartially, to the best of their knowledge and ability, to assess and appraise the damages (if any) which may be sustained by the owner or owners of any property or water privilege so required to be so ascertained, to proceed to assess said damage; and if, upon trial, said arbitrators, so appointed, shall not be able to agree upon the amount of damage, they are hereby empowered and authorized to select another person, (being qualified in every respect as they are themselves, for an appraiser,) who, after taking the oath aforesaid, shall proceed, as aforesaid, with the other two appraisers, to assess said damage, and who, (or any two of them,) after agreeing upon the amount so assessed upon any property, shall make out and sign two certificates of their assessment, giving one certificate to the president of said company, and the other to the person or persons owning the property so assessed. Said arbitrators to be paid a reasonable compensation per day for their services while so employed.—one-half of said expense to be paid by the company and the other half by the person or persons owning the property so appraised or assessed, if there should be any damage awarded; if not, all expense to be paid by the person or persons requiring said appraisalment.

Sec. 9. The said assessment when so made shall not be final and conclusive, but if either of the said parties shall be dissatisfied therewith, it shall be the duty of the party dissenting therefrom to make application to the circuit court of the said county of Fountain, at its term next thereafter, setting forth the particulars of the said controversy, and the objections to the finding of the said appraisers, and the said court shall thereupon order the clerk to issue a writ directed to the sheriff of said county, commanding him to summon and impanel a jury, as is required in the 101 section of article 5 of chap. 48 of the Revised Statutes. The said jury shall, after being impaneled and sworn, shall be charged by the sheriff impartially to assess the damages claimed as aforesaid, and the subsequent proceedings shall be, as far as applicable, regulated by the 102, 111, and 112 sections of the said article 5th of chapter 48.

Sec. 10. Any assessment of damages when made by the appraisers with the concurrence of both parties, or in case of disagreement after the proceedings mentioned in the preceding section shall have been had, and the finding of the said jury shall have been confirmed by the court, when the same shall be fully paid and satisfied shall bar a recovery for any damages or injury sustained previous to or subsequent to such inquest, in any and every action at law.

Sec. 11. Said company is also hereby authorized and granted the privilege and right of way to lay their pipes and construct reservoirs in and through any or all, if necessary, of the streets and alleys of the said town of Attica or its additions, and also to construct, set up, and establish hydrants in said streets and alleys aforesaid wherever they may think proper or to the advantage of said town, so as not to obstruct the egress or regress through said streets or alleys, unless when in the act of repairing said pipes or hydrants or putting in and erecting new ones; when said obstructions shall be removed as speedily as possible.

Sec. 12. For the purpose of keeping up said hydrants, making repairs, establishing other lines of pipes, reservoirs, hydrants, &c., as it becomes necessary, paying the persons in said companies employed, and for other purposes, the inhabitants of said town shall pay for the use and benefit of said water, a certain specified sum or sums of money, to be assessed or prescribed by the county commissioners of the county of Fountain once in every two years; or in case of the incorporation of the town of Attica, to be assessed by the trustees or common council of said town once in two years as aforesaid, according to the distance the said inhabitants individually may live or reside from the nearest hydrant, and the amount of water used by them or their family or persons in their employ. Said amounts so assessed to be payable at the discretion of said company.

Sec. 13. Said company, when legally organized, shall have full power and authority to make such rules, orders, by-laws and regulations as they may think proper for the well management and pro-

per conduct of said company, (not incompatible with this charter or the laws of this state,) which shall be binding and may be enforced against or for all parties concerned; and when said company or its board of directors and president meet at their regular or adjourned meetings, it shall be the duty of the president to act as chairman or speaker, and to keep order and to see there is a proper record of all the proceedings of each and every meeting kept by the clerk of said company, and at the adjournment of each meeting to sign the proceedings of the same, attested by said clerk; which proceedings shall at all times be *prima facie* evidence of their contents. And it shall be the duty of said president and he is hereby required to see that all orders, by-laws, rules and regulations, and all contracts, agreements, &c., passed or ordered by said company at their meetings, be carried into effect, and he is hereby empowered and authorized to prosecute and enforce the same according to law.

Sec. 14. It shall be the duty of the clerk, and he is hereby required to keep a correct, complete, and full record from time to time of all the proceedings of said board or company, and at the close of each meeting to attest the same, and also, in a separate book to be kept for that purpose, all the proceedings in regard to the assessment of damages, the grants or certificates of the right of way, the certificates for damages assessed, all contracts, stipulations, donations, or agreements in relation to said water, and the prices assessed from time to time for the use and privilege of said water to all persons concerned, and to record all other necessary proceedings or papers which may be ordered to be recorded by said board or the president thereof, and also to be present and act as clerk thereof at all the meetings of said board or company, and it is hereby made lawful and legal, should the stockholders in said company in their judgment think proper to elect him, the said clerk, for him to serve, act, and fill the office of treasurer of said company.

Sec. 15. It shall be the duty of the treasurer to collect all assessments made for the use and privilege of the water aforesaid, and all other demands or debts due said company, if he can without suit—said debts, dues, or demands being legally made out by the clerk and presented to said treasurer for collection. But if upon trial said debts, dues, or demands are refused or neglected to be paid by the proper persons after being requested to pay the same, it shall be the duty of said treasurer to report the same to the president and board of directors at their next meeting after said refusal or neglect to pay as aforesaid, when, if it should be so decided by said board, it shall be the duty of the clerk to make out accounts against all such delinquents refusing or neglecting to pay as aforesaid, which shall be signed by the president and attested by said clerk, when it shall be the duty of said treasurer to sue and collect the same according to law without any benefit whatever from the valuation or appraisement laws of this state; and it shall be the duty of said treasurer to safely keep and account for all moneys or other property of value which may from time to time come into his hands as

treasurer aforesaid, and upon and by the orders and directions of said president and board of directors to disburse and pay over to the superintendent or other person or persons so ordered to be paid, all moneys or other property of value received by him as treasurer aforesaid, retaining the order or orders aforesaid, and taking receipt or receipts for all disbursements so made; and it shall be the duty of said treasurer, at least as often as once in one year, (or whenever the president and board of directors may require it) to make a full report of all moneys or other property of value collected or received by him, and from what sources they were collected and received, and for what purpose it was paid out or disbursed, and such other statements as may appear to him necessary and proper for the benefit of said company; when said board shall examine said report and the receipts for the paying out and disbursing the money therein named, and if found correct and in accordance with this charter, shall enter a settlement accordingly with said treasurer up to that time in the record books of said company.

Sec. 16. It shall be the duty of the superintendent to apply all moneys or other property of value received by him according to the orders and directions of the president and board of directors, and to take receipts therefor—to see that said hydrants and pipes are kept in good repair—to lay or establish from time [to time] new lines of pipes or new hydrants by order of said board, or to purchase materials or hire laborers to do all work necessary and needful about said water works, and all other things for the establishing said water works and carrying out the orders of said company; making in all cases the very best contracts and agreements he can, for the advantage of said company, and to fulfill and carry out all contracts and agreements or stipulations made or authorized by said board, and to keep a book of receipts and expenditures for all moneys received or expended by him by order of said board, and to make a report of the same to the president and board of directors at the expiration of each year at the regular meeting of said board, (or oftener if said board may in their discretion think it advisable to require it) presenting at the same time his vouchers and receipts for all moneys so paid out, and for what purpose said money was expended, with the amount received from the treasurer, which report shall be filed with the clerk and a succinct statement of the same entered in his record book; and if said board, upon inspecting and examining the same, think said report correct, they may order it to stand as a settlement with said superintendent up to that time, or the date thereof.

Sec. 17. Said board of president and directors at any time may, by a vote of two-thirds of the same, for neglect of duty or malfeasance or misfeasance in any office, dismiss or expel said clerk, treasurer, or superintendent from office, and appoint some other suitable person or persons to fill the same until the general election taken place, which shall be once in every two years from the day of the first election herein named; and at said election said president of said company shall act as judge, the said clerk as clerk, and the said treasurer as inspector of the same, or in their absence or ne-

glect to serve as such, or any one of them, said board is authorized to appoint some suitable person or persons as the same, who shall proceed and be governed in all respects as specified and directed in section three in this charter, in relation to the first election.

Sec. 18. The said board of president and directors shall from time to time allow each and all officers or persons in said company's employ, such salary or remuneration for their services as they may deem reasonable, just, and right, which amount so allowed shall be paid out of the treasury under the same rules and regulations as specified for the payment of money for other purposes: also, to declare from time to time such dividends as may arise or accumulate from the income of said water, (not necessary for the farther extension of said water works), by giving written notices in three of the most public places in said town of Attica, at least ten days before said dividend is made—which said dividend shall be paid to the stockholders in proportion to the stock taken by each, under the same rules and regulations as other moneys are paid out of the treasury.

Sec. 19. Said company before taking or having the use of said water as aforesaid, or having the privilege and right to water said town of Attica as aforesaid, shall get, obtain, and receive by mutual agreement by and between the parties concerned a regular bonafide assignment or release from Levi Halovy or his assigns nil bis or their right to water said town of Attica as passed and granted to the said Levi Halovy by the State Legislature of Indiana at its session in the years 1841 and 1842; said certificate of assignment or release when so obtained to be filed with the clerk of said company and recorded, which shall be prima facie evidence of its contents forever thereafter.

CHAPTER CCXLIV.

An Act to locate a state road in the counties of Fulton, Marshall, Pulaski, and Stark.

(APPROVED FEBRUARY 16, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Vincent Brown Lee, of the county of Marshall, William McKelish, of the county of Fulton, Peter W. Demoss, of the county of Pulaski, and Jacob Bozarth, of the county of Stark, be and they are hereby appointed commissioners to view, mark, and locate a state road as follows, to-wit: commencing on a road leading from Eady's saw mill, in Fulton county, to Barber's and Bliyen's mills,