

ACTS
OF THE
EIGHTY-THIRD LEGISLATURE
OF THE
STATE OF NEW JERSEY,
AND
FIFTEENTH UNDER THE NEW CONSTITUTION.



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....
1859.

CHAPTER CXXVI.

AN ACT to incorporate the Flemington Water Company.

Names of
corporators.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That Charles Bartles, John G. Reading, John L. Janeway, Alexander Wurts, Hugh Capner, Alexander V. Bonnell, and Bennet Vansyckel, and all other persons who may hereafter be associated with them in the manner hereinafter provided, and their successors shall be and are hereby constituted and declared to be a body politic and corporate, by the name and style of the Flemington Water Company, and by that name shall have continual succession, sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all manner of actions whatsoever; have a common seal, and make, change or alter the same at pleasure, and 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; that the stock of the said company shall be deemed personal property, and shall consist of five hundred shares of twenty dollars each; that the management of the concerns of the said corporation shall be entrusted to nine directors, being stockholders of said corporation, who shall be chosen every year at the annual meeting of the stockholders, which shall be held on the first Monday in May, at such hour and place in Flemington, in the county of Hunterdon, as said directors shall from time to time appoint, a notice of which election shall be published in a newspaper published at Flemington, for three successive weeks next before such election, at least once in each week; that all such elections shall be by ballot by the stockholders, in person or by proxy, under the inspection and direction of three stockholders, neither of them being a candidate at such election, appointed by the directors, each stockholder having a vote

General
powers.

Election of
directors.

for each share of his or her stock, and the nine persons voted for at such election having the greater number of votes shall be directors of said corporation for the succeeding year, and until others are elected in their stead; that if any two or more persons shall have an equal number of votes, so that nine directors shall not be elected, the said stockholders shall again proceed in like manner to elect out of the persons so having an equal number of votes, so many as shall complete the number of nine directors, out of which number the said directors shall, by a plurality of their votes, elect one for their president; and in case of a vacancy in the office of any of the said directors, by death, resignation or otherwise, others shall be elected by said directors to fill such vacancy; and a majority of the said directors shall be a quorum for doing business.

2. *And be it enacted,* That the persons named in the preceding section of this act shall be commissioners to procure subscriptions for the stock of said corporation, and they, or a majority of them, may open books for that purpose at Flemington, at any time after the passage of this act, giving fifteen days' previous notice thereof in a newspaper published at Flemington, and five dollars on each share of stock subscribed for shall be paid at the time of subscribing therefor, and the balance to be paid by instalments from time to time, and in such sums as the said commissioners or directors of said corporation shall think proper and direct, and not exceeding five dollars on each share at any one time; and whenever five hundred shares shall be subscribed, the said commissioners shall call a meeting of the stockholders within thirty days thereafter, by giving fifteen days' notice of the time and place, in Flemington, of such meeting, in a newspaper published in Flemington, for the purpose of electing directors and transacting other necessary or proper business; and when directors are elected, the said commissioners shall pay over to them the money they shall have received, first deducting therefrom a reasonable compensation for their own services and expenses; and all the powers of the said

Commissioners to receive subscriptions.

commissioners shall cease and be determined on the election of a board of directors; and the said directors, or a majority of them, shall have power and are authorized to call upon the said subscribers for the payment of further instalments, in such sums, at such times, and under such forfeiture as they may deem expedient, until the whole amount of shares subscribed shall have been fully paid; *provided*, the said instalments shall be at least thirty days apart, and shall not be called for in larger sums than five dollars on each share at a time, and fifteen days' notice of each instalment required shall be given in a newspaper published in Flemington.

Proviso.

Duties and powers of directors.

3. *And be it enacted*, That the directors shall be authorized, in their discretion, to appoint a secretary, treasurer, and other officers, agents, and servants, as they shall from time to time deem necessary for carrying into effect the objects and powers of said corporation, to establish rules, regulations and by-laws for and concerning the conduct and government of the directors, their officers, agents and servants, and to determine the compensation to which they shall be entitled, and to require such security from them for the faithful discharge of their respective duties as they shall deem reasonable and proper, and for and concerning the manner of making transfer of the stock; and the conduct and government of all persons and corporations with whom they may contract for the use and preservation of water furnished by the said corporation, and to restrain the waste thereof, and to impose penalties and forfeitures for a neglect and refusal to comply therewith, not exceeding fifty dollars, which penalties and forfeitures shall be recoverable in the name and for the use of the said corporation before any justice of the peace of the county of Hunterdon, with costs, in an action of debt.

Proceedings in case company and owners can not agree.

4. *And be it enacted*, That if it should become necessary, in the opinion of the said directors, to lay pipes through any private lands in said county of Hunterdon, 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 lands, or the price 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 the 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 justices of the supreme court of this state, upon application to him by said directors, or on their behalf, and after ten days' 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 daily newspaper printed at Trenton, to appoint three disinterested appraisers from the county of Hunterdon to determine the compensation to be paid for the laying of said pipes through said lands, or the price to be paid for said lands, as the case may be; and it shall be the duty of the 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 the appointment, to deliver to said directors a written appraisement, 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 appraisement the said directors shall cause to be recorded in the registry of deeds for the county of Hunterdon; 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 appraisement, if any, then the said directors shall have the right to lay said pipes through the lands aforesaid, or the said corporation 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 the 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 chancery of this state subject to the order of said court, for the use of the party or parties entitled to the same; the costs of all which proceedings shall be taxed by the said justice of the supreme court, and paid by the said directors.

Parties dis-
satisfied
may appeal.

5. *And be it enacted*, That in case the said 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 justices of the supreme court at the next term after filing of the said award, the court 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 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 the said court are tried; and it shall be the duty of the said jury to assess the value of the said land or damages aforesaid 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 corporation, and execution awarded thereof; 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 said 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 from taking or laying pipes through said lands upon the award of the appraisers, the value or damages being first paid, or upon a refusal to receive the same upon a tender thereof, or the owner or owners thereof being under any legal disability, the same being first paid into the court of chancery.

6. *And be it enacted*, That whenever it shall become necessary to make any repairs or alterations in any pipes which may have been laid through any private lands, either by virtue of the preceding section or by agreement with the owner or owners thereof, 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 directors, or their workmen or agents, from any action that may be brought against them individually by the owner or owners of said lands, for any damage which they may have wilfully or unnecessarily done.

Company may enter on lands for purpose of repairs, &c.

Proviso.

7. *And be it enacted*, That for the purpose of effectually supplying with water the village of Flemington, its vicinity, and the inhabitants thereof, it shall and may be lawful for the corporation created by this act, and they are hereby 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, and to erect and construct hydrants and fire plugs in the streets, alleys, lanes and other places in the village of Flemington, and in the highways of the township of Raritan, in said county of Hunterdon, and to do all things necessary to furnish the said village of Flemington, and its vicinity, and the buildings, streets, and other places situate therein with water; *provided*, that the public travel upon the said highways, streets, lanes, and alleys shall at no time be unnecessarily affected or impeded in the laying or repairing of pipes, or 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 and 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

Company may make contracts for supply of water.

Proviso.

without permission first obtained from the owner or owners thereof.

Penalty for
injuring
works.

8. *And be it enacted*, That if any person shall wilfully do or cause to be done any act or acts whatever, to injure any engine, machine, reservoir, pipe, fire plug, hydrant, or structure whatsoever, or anything appertaining to the works of the said corporation, 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 anywise 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.

Proviso.

Dividends.

9. *And be it enacted*, That the president and directors of the said corporation 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 accounts, in which shall be fairly and truly 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.

Additional
supply of
water.

10. *And be it enacted*, That if the water now contemplated to be used by the said corporation for the purposes of this act of incorporation, should, by reason of the increased demand therefor, be insufficient to supply the demand, it shall be lawful for the said corporation, and they are hereby empowered to procure an additional supply of water from other sources, and to erect and construct the necessary works therefor; and, if necessary for such purposes, they are hereby authorized and empowered to increase their

capital stock from time to time, not exceeding in the whole additional amount the sum of twenty thousand dollars, to be divided into one thousand shares of twenty dollars each, to be paid by instalments in the manner and upon like notice above mentioned; and whenever a subscription to said additional stock is 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 stock held by them; and whenever a dividend is declared, the said directors shall declare and make dividends upon all the stock subscribed and paid for.

11. *And be it enacted*, That this act shall take effect immediately after the passage thereof.

Approved March 15, 1859.

CHAPTER CXXVII.

A SUPPLEMENT to the act entitled "An act to incorporate the Paterson and New York Plank Road Company," approved March fourteenth, eighteen hundred and fifty-one.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the president and directors of the said the Paterson and New York plank road company be and they are hereby authorized and empowered to sell at public or private sale, and to grant and convey to any person, persons or corporation the whole or any part of ^{Road may be sold.}