

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
EIGHTY-EIGHTH SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY THIRD, AND ENDED APRIL TWENTY-NINTH,
1865, IN THE CITY OF ALBANY.



ALBANY:
WILLIAM GOULD, LAW BOOKSELLER, 68 STATE STREET.
1865.

extended and continued hereby of the same width, over and through the said public place called Observatory place, until each of said streets, when continued in a straight line in a northwesterly direction from the westerly side of the Fourth avenue, will intersect the easterly side of the Fifth avenue, and the said map or plan is hereby altered accordingly; and said streets are hereby appropriated and declared to form the said extended streets in the same manner and with the like effect as if they had been originally laid out as such streets upon the said commissioners' plan; but nothing herein contained shall divest the title of the owners of the fee in such extended streets.

§ 3. This act shall take effect immediately.

Chap. 136.

AN ACT to incorporate the Amsterdam Water Works Company.

Passed March 17, 1865; three-fifths being present.

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

SECTION 1. Stephen Sanford, William K. Green, Jr., Hoel S. McElwaine, Adam W. Kline, Davis Shuler, John Kellogg, John C. Miller, and all such persons as are, or may be hereafter, associated with them, are constituted a body corporate by the name of the Amsterdam Water Works Company.

Corporators.

Corporate name.

§ 2. The capital stock of said company shall be fixed by the directors thereof, but the same shall not be less than ten thousand dollars, nor exceed fifty thousand dollars, to be divided into shares of twenty-five dollars each.

Capital stock.

§ 3. The persons first named herein shall be the first directors of such corporation, and shall hold their office until others are chosen in their place, and, in case of vacancy in the direction by death, resignation, or his ceas-

First directors.

ing to be a stockholder, it may be filled by the remaining directors until the next annual meeting, or until some other person shall be elected to fill the same. The directors may remove all officers appointed by them, and appoint others in their place, 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 any other day, in such manner as shall be prescribed by the directors or provided for by the by-laws. The first election of directors under this act shall take place on the first Wednesday of April, A. D. eighteen hundred sixty-five, in the village of Amsterdam, upon some such public notice, and in such manner as the directors shall prescribe, and shall be held at the same time and in the same manner annually thereafter. The board of directors shall elect a president, secretary, and treasurer, and such other officers, and appoint such agents as they may deem necessary, and prescribe their duties and powers, and may also make such by-laws, rules and regulations for the management of the corporation and the protection of its property as the directors shall deem necessary for the purpose of more effectually carrying out the objects contemplated by this act.

§ 4. The object of this act is the improvement of the Chuctanunda creek, by increasing the amount of water, and regulating the flow thereof, for the supply of mills and establishments on said stream, by forming reservoirs, connecting ponds with said stream, and constructing dams and gates at and below the outlets of such reservoirs and ponds, and by such other works and improvements as will increase the usefulness of said stream for the purpose herein declared. The said corporation may purchase, take, hold, and possess any real estate adjacent to the said stream, for the purpose aforesaid.

§ 5. In case any disagreement shall arise between the said corporation and the owner or owners of such adjacent land in respect to the purchase or taking thereof, they shall cause a survey and map of the lands intended to be taken or entered upon for any of said purposes, by which the land of each owner or occupant intended

Time and
plan of first
election.

President,
&c.; how
appointed.

By-laws,
&c.; by
whom
made.

Object of
corpora-
tion.

Its powers.

When sur-
vey and
map to be
made.

to be taken or used shall be designated, which map shall be designed 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 Montgomery. The company, by any two 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.

§ 6. In case the company cannot agree with said 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 Supreme Court, at any term in session thereof, held in the fourth judicial district, for the appointment of three 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 works 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 of the 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 place 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 county; and if any of said owners shall 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 admin-

When directors may apply to supreme court for appointment of commissioners to appraise damages

Commissioners to serve notice.

Powers and duties of commissioners.

Compensation of commissioners.

ister 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 the 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 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 going to and returning, if living more than three miles from the place of meeting.

Appeal.

Proceedings in case of appeal.

§ 7. 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 notice of the appeal to the other party or parties interested in the same; and the said court shall, upon the report of the commissioners and upon additional testimony to be taken by them, if they deem the same to be necessary, proceed to hear the said appeal, and may confirm the proceedings of the commissioners, or may increase or diminish the amount of compensation awarded by the said commissioners, and if the proceedings in any case have been irregular, the court may set the same aside and order a new proceeding 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.

Rights of company on payment of compensation awarded.

§ 8. Upon the payment or legal tender of the compensation awarded by the said commissioners, or (in case of appeal) by the said court, the said company shall be entitled to enter upon, for the purpose 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 to 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 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 the court may appoint. A certificate of such deposit, signed by the cashier of the bank, shall be published by said company in two newspapers published in said county for four weeks successively, immediately after said deposit. If the person to whom the 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.

§ 9. The said company shall also take and hold for the purpose 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.

§ 10. Any person or persons who shall wantonly, willfully and maliciously injure or destroy any dam, reservoir, gate or other property of said corporation, or upon or connecting with said stream, or without authority shall open or shut any such gate, shall be deemed guilty of a misdemeanor.

§ 11. This act shall take effect immediately.