

P. N. Jones

L A W S

OF THE

STATE OF NEW-YORK,

PASSED AT THE

EIGHTIETH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY SIXTH, AND ENDED APRIL EIGHTEENTH, 1857, IN THE
CITY OF ALBANY.

VOL. II



ALBANY:
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1857.

penses thereof, shall be provided for, and paid by the Buffalo Juvenile Asylum.

§ 5. Section seventeen of the said act is hereby amended, so as to read as follows :

Discharge
of vicious
children.

§ 17. The said corporation shall have power, and it shall be their duty whenever any child intrusted or committed to their charge shall be found to be so **degraded*, debased **as vicious*, as to be an improper subject **from* their care and management, to discharge such child from the asylum, or if such child was transferred from the county poor house to return it thereto.

§ 6. Section twenty-five of the said act is amended, by inserting therein the word "name" between the words "their" and "sex," so as to require the name of each child to be reported to the legislature, and the common council of the city of Buffalo.

§ 7. Section twenty-seven and section twenty-eight of the said act are hereby repealed.

County to
convey
land to
asylum.

§ 8. The county of Erie, by its board of supervisors, is hereby authorized, conformity with a resolution heretofore adopted by the board or otherwise, to give and convey to the Buffalo Juvenile Asylum ten acres on any other portion of its poorhouse farm, or in the discretion of said board to give towards the foundation and support of said asylum such sum of money as may be deemed reasonable, to be levied and collected as a county charge.

§ 9. This act shall take effect immediately.

Chap. 760.

AN ACT to incorporate the Avon Water company.

Passed April 17, 1857, three-fifths being present.

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

Corporate
name.

SECTION 1. Amos Dann, James Hosmer, Hiram B. Smith, George H. Nowlan, and McRee Swift, and all such persons as are or may hereafter be associated with them, are constituted a body corporate by the name of the "Avon Water company."

* So in the original.

§ 2. The capital stock of said company shall be fifteen thousand dollars, to be divided into shares of twenty-five dollars each, and the said company are hereby empowered to increase their capital stock at any time to a sum not exceeding twenty-five thousand dollars.

Capital
stock.

§ 3. A majority of the persons named in the first section of this act, shall proceed to receive subscriptions to its capital stock in such manner as they shall direct, until the whole of such capital stock shall be subscribed. The stock shall be considered personal property, and shall be assignable and transferable on the books of the company.

Subscrip-
tions to
stock.

§ 4. The concerns of said corporation shall be managed by five directors, who shall be stockholders, 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 place in the village of Avon, as the directors for the time being shall appoint. The first election shall be made on the first Monday of May, eighteen hundred and fifty-eight. Three weeks' notice of such election shall be given by posting the same in three public places in said village. 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. The voting shall be by ballot.

Managem-
ent of
affairs.

Notice of
election.

§ 5. The directors shall annually appoint a president, secretary, and such other officers as they shall deem necessary, who shall hold their offices until others are appointed in their places, and they shall 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 purpose of the corporation.

Officers of
corpora-
tion.

§ 6. The directors may require payment of subscription to the capital 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 may sue for and recover all such subscriptions.

Payment of
subscrip-
tions.

§ 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, eighteen hundred and fifty-eight, and until others are chosen in their places. 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,

First direc-
tors.

Inspectors.

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 of 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 three 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 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.

May hold real estate.

May enter upon lands.

§ 8. For the purpose of supplying the village of Avon and its vicinity, with pure and wholesome water, said company may purchase or lease and take and hold any real estate necessary for the purpose, and by its agents, directors, servants or other persons employed, may on making compensation therefor, in the manner provided for in this act, enter upon the lands of any person or persons which may be necessary for that purpose, and may take the water from any springs, ponds, wells, fountains, streams or other sources, and divert and convey the same to said village, and may lay and construct any pipes, conduits, aqueducts, canals, wells, reservoirs or other works or machinery necessary or proper for said purposes, upon any lands so entered upon, purchased, taken or held; said corporation may as aforesaid 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, rivers, streams, wells, reservoirs or other sources, and lay and construct therein any pipes, conduits, aqueducts, canals or other works for that purpose only, and construct sewers or drains therein by agreement with the said village corporation, for the purpose of carrying off said water leaving the said lands, streets, highways, roads, lanes or public squares in the same condition, as nearly as may be, as they were before said entry.

§ 9. Before entering, taking or using any land for the purpose of this act, that will require the appointment of commissioners, as hereinafter provided, 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 the above 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 or surveyor making the same, and by the president of said company, and be filed in the office of the clerk of the county of Livingston. 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 maps.

Survey and map.

§ 10. In case the said company cannot agree with the said owners and occupiers of any land 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 or session thereof, held in the seventh judicial district, or to the county court of said county of Livingston, 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 said commissioners, the 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 the 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 thereupon, serving notice in like manner upon his guardian, or person appointed to act for him as hereinafter directed; and in case any of said persons cannot be found in this state, such notice shall be given by publishing the same for four weeks successively, in a newspaper published in the said county of Livingston; and if any of said owners shall be married woman,* insane, infants

Appointment of commissioners

Duty of commissioners.

* So in the original.

or idiots, the said court shall appoint some suitable person to attend in their behalf, before the 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 of them may administer the usual oaths 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 any other person, and return the same to said court, to be filed on 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 duty under this act, and to each witness sworn and testifying, and if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed, the sum of one dollar per day, and four cents per mile travel in going and returning, if living more than three miles from the place of meeting.

Issuing of
subpoenas.

Compensation of
commissioners.

Appeals from
awards.

§ 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 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 examine the report of the commissioners, and if their proceedings in the case have been irregular, the court may set them aside and order new proceedings and appraisements; and the said court may make such orders in reference to the proceedings of the commissioners, and of notice 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 attempt or actual ascertainment of compensation under this act, or any purchase of 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 an ascertainment of the compensation proper to be made to any person or persons whose title, claim or interest in,

Defective
titles.

* So in the original.

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 purpose contemplated by this act, all the land, waters and real estate for which such compensation shall be paid or tendered as aforesaid, and to hold the same for the said purposes, and no other, 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 shall be made by depositing the amount of the 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 said bank, shall be published by said company in a newspaper published in the county aforesaid, 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.

Upon payment of legal tender the company may enter upon and hold lands, &c.

Payment to guardians.

§ 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 thereof, to them and their successors forever.

May take and hold all lands, &c.

§ 14. 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 use, and restraining the waste thereof; and may thereby impose reasonable 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 having jurisdiction thereof;

Rules and regulations

said rules and regulations shall be engrossed in a book for that purpose, open to the inspection of any stockholder.

Water for
use of fire
departm't.

§ 15. The said company shall furnish water to the village of Avon for the purpose of extinguishing fires, and for other public uses, upon such terms as may be agreed upon between them; and in case of disagreement, the compensation for the use of said water for the extinguishment of fires, shall be determined by the appraisal of three disinterested men, to be selected by the parties, or by the supervisor of the town, so far as the parties may not agree, and the said company may make any agreements, contracts and leases for the sale, use and distribution of waters, as may be agreed upon between said company and any person or persons, associations and corporations, which agreements, contracts, grants and leases shall be valid in law.

Injury to
property of
company.

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

§ 17. 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.

Certificate
of amount
of capital.

§ 18. 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 clerk's office of Livingston county.

Liability of
stockholders.

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

Persons
holding
stock as
executor,
&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 subject to any liability as a stockholder of said company; but the person pledging the 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, 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 had he been living and competent to act, and held the stock in his own name. Every such executor, administrator, guardian or trustee, shall represent the shares owned by him as such executor, 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.

§ 21. All the stockholders under this act shall be severally and individually liable to an amount equal to the amount of the capital stock held by them respectively, to the creditors of such company, for all the debts contracted by the board of directors or agents of such company, for its use, until the whole amount of the capital stock of said company is paid in, and a certificate thereof filed in the office of the clerk of the county of Livingston. If the directors of said corporation shall contract debts for the company exceeding in the aggregate the amount of the capital stock, they shall primarily be personally liable for such excess, and the stockholders shall be secondarily liable for such excess, in the ratio of their respective shares of stock.

Individual liability.

§ 22. No stockholder shall be personally liable for the payment of any debt contracted by said company, unless a suit for the collection of said debt shall be brought against said company within two years after the debt shall have become due, and no suit shall be brought against any stockholder for any debt so contracted until an execution against the company shall be returned unsatisfied in whole or in part.

Suit agst. stockholders.

§ 23. If the said 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 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 is provided in section six of this act.

Increase of capital.

Village corporation may take stock.

§ 24. The corporation of the village of Avon is hereby authorised to subscribe to the capital stock of the company to an amount not exceeding one thousand dollars to be assessed on property in said village in three equal annual instalments, and collected as other assessments.

Village may purchase property.

§ 25. If the corporation of the village of Avon, shall at any time within twenty years after the passage of this act make provisions for repayment to the stockholders of the said company for the amount of capital stock actually paid and expended by them, together with twenty per cent premium on the amount thus actually paid in and expended by said company, and assume the outstanding debts and contracts of said company, then the said waterworks together with all lands, fixtures and appurtenances, shall vest in and become the property of the village of Avon. And the corporation of the said village of Avon is hereby authorised to make such purchase, and to issue and sell its bonds in payment therefor.

Tax upon capital stock.

§ 26. No taxes shall be assessed on the capital stock or property of this company until it shall have earned seven per cent per annum on its capital paid in.

Rights of village corporation.

§ 27. Nothing in this act contained shall be so construed as to interfere with the rights, privileges, powers and immunities now held by the village of Avon.

§ 28. This act shall take effect immediately.

Chap. 761.

AN ACT for the relief of Marcus Brown.

Passed April 17, 1857, three-fifths being present.

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

Payment of damages

SECTION 1. The treasurer shall pay on the warrant of the comptroller, to Marcus Brown, legatee of Coonradt Brown, deceased, or to his legal representatives, the sum of one thousand five hundred and forty-five dollars and ninety-eight cents, being the amount of property taken for the supply of the army in the revolutionary war from