

L A W S
OF THE
STATE OF NEW-YORK,

PASSED AT THE

SEVENTY-EIGHTH SESSION

OF THE

L E G I S L A T U R E ,

BEGUN JANUARY SECOND, AND ENDED APRIL FOURTEENTH, 1855, IN THE
CITY OF ALBANY.



ALBANY:
VAN BENTHUYSEN, PRINTER.

.....
1855.

third, eighteen hundred and twenty-three, and the act amending the same, passed January twenty-third, eighteen hundred and twenty-four, are hereby repealed.

§ 13. This act shall take effect immediately.

Chap. 277.

AN ACT to incorporate the Cohoes Water Works Company.

Passed April 10, 1855, three-fifths being present.

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

- Title. § 1. Charles M. Jenkins, Hugh White, Alfred Wild, Egbert Egberts, James Brown, Joshua Bailey, William N. Chadwick, William Burton, Henry D. Fuller, Andrew D. Lansing, Jenks Brown and Truman G. Younglove, and all such persons as are or may hereafter be associated with them, are constituted a body corporate, by the name of the "Cohoes Water Works Company."
- Capital stock. § 2. The capital stock of said company shall be fifty thousand dollars, to be divided into shares of twenty dollars each, and the said company are hereby empowered to increase their capital stock at any time, not to exceed two hundred thousand dollars.
- Subscription books. § 3. Books of subscription for the capital stock of said corporation, shall be opened under the direction of the directors hereafter named, subject to such rules and regulations as they shall prescribe, and the stock shall be considered personal property, and shall be assignable and transferable as such.
- Directors. § 4. The concerns of said corporation shall be managed by thirteen directors, who shall be stockholders, and who shall hold their office 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 village, 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-six. Three weeks' notice of such election shall be given by a publication, at least once in each week, in newspaper pub-
- Elections.

lished in said village. Each stockholder shall be entitled to one vote upon each share of stock held by him or her, at least twenty days previous to an election. Voting shall be by ballot, and may be in person or by proxy.

§ 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 proper necessary and for the management of their business, and for accomplishing the purposes of the corporation.

Officers.

§ 6. The directors may require payment of subscriptions to the 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. Notice of the time and place of such payments, shall be published for four weeks previous to said time, at least once in each week, in a newspaper published in said village.

Payments of stock.

§ 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-six, 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 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.

Vacancies

§ 8. For the purpose of supplying the said village of Cohoes with pure and wholesome water, the said company may purchase, take, and hold any real estate and by their

Real estate.

directors, agents and 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, wells, rivers, streams, or lakes, and divert and convey the same to and through the said village, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs and other works or machinery necessary or proper for said purpose, upon any lands so entered upon, purchased taken or held, and may as aforesaid enter upon any lands, streets, highways, roads, lanes or public squares, through which they may deem it proper to convey the water from said springs, ponds, fountains, wells, rivers, streams or lakes, and lay and construct any pipes, conduits or other works for that purpose, leaving the said lands, streets, highways, roads, lanes and public squares in the same condition, as near as may be, as they were before said entry, but the said company shall not lay and construct said pipes, conduits, aqueducts and other works through any private garden and court-yard, without the written consent of the owner thereof.

Survey and map.

§ 9. Before entering, taking or using any land 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 such owner or 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 Albany. 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.

Proceedings to acquire real estate.

§ 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 thereof, the directors may apply to the supreme court, at any term or session thereof, held in the third 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 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 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 owners cannot be found in this state, such notice shall be given them by publishing the same for six weeks successively, in one newspaper published in said village, and one published in the city of Albany; 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 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 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 sworn and testifying, and if not sworn and testifying, who the commissioners certify were properly and necessarily subpoenaed, the sum of seventy-five cents per day and four cents per mile travel, in going and returning, if living more than three miles from the place of meeting.

§ 11. The said company, or any party to the proceedings before 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 in writing of the appeal, to the other party or parties interested in the same, and the 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 com-

Appeal.

missioners, in whole or in part, or may increase or diminish the amount of compensation awarded by the said commissioners; and if their proceedings in any case have been irregular, the court may set the same 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 the 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.

Damages
how paid.

§ 12. Upon the payment or legal tender of the compensation awarded by the said commissioners, or (in case of an 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 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 the said award to the credit of the said person in such bank as may be appointed by the said court; a certificate of such deposit, signed by the cashier of the bank, shall be published by said company in one newspaper published in said village, and one published in the city of Albany, 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 said court; and if said guardian or person appointed cannot be found, then by deposit in bank as aforesaid.

Property.

§ 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.

Regulations for
laying
pipe.

§ 14. In laying pipes, conduits or aqueducts, or constructing or erecting works in the streets, lanes or public squares of the village of Cohoes, the company shall conform to such regulations as the trustees of the said village of Cohoes shall prescribe, when said works are constructed.

§ 15. The said directors of said company may from time to time establish rules and regulations for and concerning the use of the water from their works, and 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 penalties and forfeitures for any violation of said rules and regulations, so that such penalty and forfeitures shall not in any case exceed ten dollars, which penalties may be recovered, with the costs, in the name of the company before any justice of the peace, or any other officer possessing the powers of justice of the peace in said village. Said rules and regulations shall be published for three weeks successively in one newspaper published in said village, and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavits of the publication of the same made by any one of the publishers of said paper, or by a foreman in their office, shall be received as evidence in all courts and places.

Rules for
use of
water.

§ 16. The said company shall furnish water to the village of Cohoes, for the purpose of extinguishing fires, upon such terms as may be agreed upon between them and the trustees of said village; the said company may make any agreements, contracts, grants, and leases for the sale, use and distribution of water for any purposes other than as a motive power, that may be agreed upon between said company and any person or persons, associations and corporations, which agreements, contracts, grants, and leases, shall be valid and effectual in law.

Lease of
water.

§ 17. Any person who shall wilfully or maliciously destroy 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, and may be punished by fine or imprisonment, or both, in the discretion of the court; and shall also forfeit and pay to the company treble the damages sustained thereby, to be recovered in any court having cognizance thereof, with costs.

Penalty for
injuring
works.

§ 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, so far as the same are applicable, and not otherwise provided for in this act.

General
powers

Liability of
stock-
holders.

§ 19. All the stockholders of the company hereby created, shall be severally and individually liable to the creditors of the 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 fixed and limited by the directors of said company shall be paid in, and a certificate thereof shall have been made and recorded as prescribed in the following section, and the capital stock so fixed shall all be paid in, one-half thereof in one year, and the other half within two years from the time of the commencement of the works of said company under this act, or the corporation hereby created shall be dissolved.

Certificate
of stock
paid in.

§ 20. 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 Albany county.

Liability
for labor.

§ 21. 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.

Debts
limited.

§ 22. The indebtedness of said company shall not at any time exceed an amount equal to twenty 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.

Liability of
trustees.

§ 23. 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, 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 in his own name. Every such executor, administrator, guardian or trustee, shall repre-

sent the shares of stock owned by him as such 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.

§ 24. 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 one year after the debt shall have become due, and no suit shall be brought against any stockholder for any such debt until an execution against the company shall have been returned unsatisfied in whole or in part.

Limitation
of liability

§ 25. 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
stock.

§ 26. The said company may make an agreement with the Cohoes company for a supply of water from the canals or other waters of said Cohoes company, for all purposes which may be required by the company hereby created, and may also purchase from the Cohoes company the water works now owned by said Cohoes company, and in use for supplying said village with water, and the said Cohoes company are hereby authorised to take and hold stock in said Cohoes water works company to an amount not exceeding twenty thousand dollars.

Cohoes
company
may purchase
stock.

§ 27. This act shall take effect immediately.