

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.

shall be entitled to all the privileges of such academies, and share in the distribution of the moneys of the literature fund of this state as the academies thereof; and said trustees shall have authority to make regulations respecting the attendance of the children of the said district in the school houses thereof, the transfer of them from one room or school house to another, the instruction and studies to be given and pursued in said schools; provided, however, that this act shall not affect the rights and duties of said trustees and district, under the statutes of this state relating to common schools, or under any special act relating to said district number one.

§ 2. This act shall take effect immediately.

## Chap. 239.

### AN ACT to incorporate the Fort Edward Water-Works Company.

Passed April 10, 1855.

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

- Title.** § 1. Russell W. Pratt, John McIntyre, George H. Taylor, Solomon Durkee, John Parry and all such persons as are or may hereafter be associated with them are constituted a body corporate by the name of "The Fort Edward Water-Works Company."
- Capital stock.** § 2. The capital stock of said company shall be ten thousand dollars, to be divided into shares of fifty dollars each; and the said company are hereby empowered to increase their capital stock at any time to a sum not to exceed twenty-five thousand dollars.
- Subscriptions.** § 3. A majority of the persons named in the first section of this act shall meet, at some convenient place, in the village of Fort Edward, on the first Monday of April next, or on such other day as they may select, and receive subscriptions to the capital stock of said company, and may adjourn such meeting, from time to time, until the whole amount of such stock shall be subscribed. The stock shall be considered personal property, and shall be assignable and transferable on the books of said company.

§ 4. The concerns of said corporation shall be managed by five 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 March, at such place in said village as the directors for the time being shall appoint. The first election shall be held on the first Monday of March, Anno Domini, one thousand eight hundred and fifty-six. Two weeks notice of such election shall be given by a publication in a newspaper printed in said village, or on written notice served on each of the stockholders. Each stockholder shall be entitled to one vote upon each share of stock held by him or her, for at least two weeks previous to an election. Voting shall be by ballot, and may be in person or by proxy.

Directors  
and their  
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 such by-laws and regulations as they may deem necessary and proper for the management of their business, and for the accomplishing of the purposes of the corporation.

Officers.

§ 6. The directors may require payment of the subscriptions to the capital stock, at such time and in such proportions as they may see fit, under the penalty of forfeiting of all stock and previous payments thereon, and may sue for and recover all such subscriptions. Notice of the place where and time when such payments are required, and the amount thereof, shall be published in a newspaper printed in said village, for four weeks previous to said time, at least once a week; or personal notice in writing may be served on each of the persons subscribing to said stock, at least four weeks previous to said time of payment.

Payments  
of sub-  
scriptions.

§ 7. The persons named in the first section of this act, shall be the first directors, and shall hold their office until the first Monday of March, one thousand eight hundred and fifty-six, and until others are chosen in their places. In case of a vacancy in the directors, 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, or a majority of them, shall be inspectors of the elections of

Vacancies  
how filled.

the company. 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 for that cause shall not 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.

Real  
estate.

§ 8. For the purpose of supplying the said village of Fort Edward with pure and wholesome water, said company may purchase, take and hold, any real estate necessary for the purpose, and by their directors, agents, servants, and 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 springs, ponds, wells, fountains, or streams, and divert and convey the same to said village, and may raise or force the same into reservoirs by means of steam or any mechanical power, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs, or other works or machinery necessary or proper for such purpose, 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, streams, wells, and reservoirs, and lay and construct any pipes, conduits, aqueducts, or other works, engines and machinery for that purpose, 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. But the said company shall not within the bounds of said village, lay and construct said pipes, conduits, aqueducts and other works, through any private garden, court yard or building, without the consent of the owners thereof, or without acquiring the right by purchase or gift from the person or persons having the right to such entry.

Title to  
real estate  
how to be  
acquired.

§ 9. Before entering, taking, or using any land for the purposes of this act, unless the right to take, or enter, or use the same shall be acquired by said company by deed from the person or persons having the title thereto, or the right to enter and use the same, 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 pur-

poses, and in which the lands of such owner or occupant intended to be taken and used shall be designated, and which maps 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 Washington. 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.

§ 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 general or special term thereof, held in the fourth judicial district, for the appointment of three commissioners, by whom the compensation to be paid for the damage suffered or to be suffered by any person or persons, by reason of taking said lands and water, and constituting 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 on 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 to act thereupon, by serving notice in like manner upon his or her guardian or person appointed to act for him or her as hereinafter directed; and in case any of the owners cannot be found in this state, such notice shall be given by publishing in said village and in the state paper; 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 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 either of them, may administer the usual oaths to such witnesses. They shall make a written report of their proceedings, containing the testimony taken by them, and showing the sum awarded to each owner or other person, and return the same to said court to be filed of record. The company shall pay to each commissioner

Proceed-  
ings to ac-  
quire title.

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 necessarily sworn and testifying, the sum of one dollar per day.

Appeal.

§ 11. The said company, or any party to the proceedings of the commissioners, may appeal from any award or determination of the commissioners to the Supreme Court ; provided, the party appealing shall within ten days after such award or determination shall be made, give written notice of appeal to the other party or parties interested in the same, and the said court shall examine the report of the commissioners, and on good cause shown, the court may set the same aside and order new proceedings and appraisal, before the same or other commissioners, as the court shall deem proper. And the said court may make such orders in reference to the proceedings of the commissioners and of notices to be given to the parties, as may not be inconsistent with this act, and as the nature of the case and the interests 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 attempted or actual ascertainment of compensation under this act, or any purchase of lands or water, or rights for the use of said company, the title acquired to all or any part of said land, or water, or rights, 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, or lien upon such lands, water or rights, 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.

Payment of  
award how  
made.

§ 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 lands, waters and real estate for which such compensation shall be paid or tendered as aforesaid, and to use or hold the same, for the said purposes, to them and their successors forever; if any person to whom any sum 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 may be appointed by said court.

§ 13. The said company shall also take and hold for the purposes contemplated in this act, all the lands, waters, real estate and rights which they shall in any way legally enter upon and take, to them and their successors forever.

Title ac-  
quired.

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

Regula-  
tions for  
laying  
pipes.

§ 15. 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, use and restraining the waste thereof; and may thereby impose 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 of the town of Fort Edward, in the county of Washington. A copy of said rules or either of them, certified by the president or secretary, shall be received as evidence in all courts and places.

Rules for  
use of  
water.

§ 16. The said company may make any agreement, contracts, grants and leases, for the sale, use and distribution of water as may be agreed upon between said company and any person or persons, associations and corporations, or with the trustees of said village of Fort Edward, which agreements, contracts, grants and leases, and all agreements and contracts made by said company in carrying on its legitimate business shall be valid and effectual in law. And all contracts and agreements shall be signed by the president or secretary as follows: For the Fort Edward Water Works Company, by order of the directors.

Contracts  
for the sale  
and use of  
water.

————— President.

or ————— Sec'y.

§ 17. 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 to affect the water rights or powers of said company, shall be deemed guilty of a misdemeanor.

Penalty for  
injuring  
works.

Liability  
of stock-  
holders.

§ 18. All the stockholders of the company hereby created shall be severally and individually liable to the creditors of 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 said capital stock subscribed and distributed among the stockholders, not exceeding the amount fixed and limited by the directors of the company, shall be paid in), and a certificate thereof shall be made and recorded, as prescribed in the following section.

Certificate  
of payment  
of stock.

§ 19. The president and a majority of the directors, within thirty days after the payment of the last instalment required to be paid on the capital stock of said company by the directors thereof, for the year ending on the first Monday of March, one thousand eight hundred and fifty-six, shall make a certificate of the amount of capital required and fixed by said directors to be paid in during that year, and the amount actually paid in during the year, and the amount actually paid in by the stockholders, 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 the county of Washington.

Suits  
against  
stock-  
holders.

§ 20. No suit shall be brought against any stockholder for any debt contracted by said company, until an execution against the company shall be returned unsatisfied, in whole or in part.

Increase of  
stock.

§ 21. 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 the third section 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 the sixth section of this act.

§ 22. This act shall take effect immediately.