

*P. N. Jones*

L A W S

OF THE

ST A T E OF NEW-YORK,

PASSED AT THE

EIGHTIETH SESSION

OF THE

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

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

---

VOL. II

---



ALBANY:  
VAN BENTHUYSEN, PRINTER.

.....  
1857.

## Chap. 512.

AN ACT authorising Justices of the Peace to renew executions.

Passed April 15, 1857.

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

SECTION 1. If any execution, issued by a justice of the peace upon a judgment rendered by him, be not satisfied, it may from time to time be renewed by said justice, by an endorsement thereon to that effect, signed by him, and dated when the same shall be made. If any part of such execution has been satisfied, the endorsement of renewal shall express the sum due on the execution. Every such endorsement shall be deemed to renew the execution in full force, in all respects for sixty days from the date thereof.

Renewal

§ 2. All laws inconsistent with this act are hereby repealed.

§ 3. This act shall take effect immediately.

## Chap. 513.

AN ACT to incorporate the Fort Plain Water Works Company.

Passed April 15, 1857.

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

SECTION 1. Peter G. Webster, Harvey E. Williams, David Wieting, Leander Fox, S. O. Austin, Solomon Smith and David W. Erwin, and all such persons as are or may be hereafter associated with them, shall be and are hereby constituted a body corporate, by the name of the Fort Plain water works company.

Cor pora-  
tion.

Capital  
stock.

§ 2. The capital stock of said company shall be five thousand dollars, and shall be divided into shares of twenty-five dollars each, but may at any time be increased by the directors of the company; provided that such capital stock shall not be increased so as to exceed the sum of fifteen thousand dollars.

Books to be  
opened.

§ 3. Books of subscriptions to the capital stock of said company shall be opened under the direction of the directors hereinafter named, and subject to such rules as they may prescribe; and the stock of said company shall be considered personal property, and shall be assignable and transferable on the books of the company.

Directors.

§ 4. The concerns of said company shall be managed by seven directors, who shall be stockholders, and residents of the town of Minden, and who shall hold their offices for one year, and until others are chosen in their places. The annual election of directors shall be held on the first Wednesday in May, in each year, at such place in the village of Fort Plain, and at such hour of the day, as the directors for the time being shall prescribe. Notice of such election shall be published once in each week, for three weeks, immediately preceding such election, in one newspaper published in said village. Each stockholder shall be entitled to one vote upon each share of stock held by him or her for thirty days next previous to such election. The election shall be by ballot, and votes may be given either in person or by proxy.

Term of  
office.

§ 5. The persons named in the first section of this act, shall be the first directors, and shall hold their offices until the first Wednesday of May, one thousand eight hundred and fifty-eight, and until others are chosen in their places. In case of a vacancy in the direction by reason of the death or resignation of any director, or of his ceasing to be a stockholder, or by his removal from the town of Minden, 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 two persons, who shall be stockholders, to be inspectors at the first annual election, after which the stockholders shall choose two such inspectors at the annual election; if no inspectors are so chosen the directors may appoint them from time to time. If at

any time if an election of directors shall not take place on the day appointed by this act, the corporation shall not for that reason be dissolved, but an election may be held on any other day, in such manner as shall be provided by the by-laws, or shall be prescribed by the directors.

§ 6. The directors may require payment of subscription to the stock at such times and in such proportions as they shall 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 the time so fixed, at least once in each week, in one newspaper published in the village of Fort Plain.

Subscription to be paid.

§ 7. The directors shall annually appoint a president, a secretary and treasurer, and such other officers and agents as they shall from time to time deem necessary, and may remove all officers appointed by them and appoint others in their places, and fill all vacancies in the offices; and they may 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 purposes of the corporation.

President, secretary, and treasurer.

§ 8. For the purpose of supplying the village of Fort Plain with pure and wholesome water the said company may purchase, take and hold any real estate, and by their directors, agents, servants or other persons employed, may enter upon the lands of any person or persons which may be necessary for said purposes, and may take such water from any springs, ponds or streams, as may be determined by the commissioners appointed as hereinafter mentioned, and direct and convey the same to said village, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs, or other works or machinery necessary or proper for said 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 convey the water from said springs, ponds, streams, wells and reservoirs, and lay and construct any pipes, conduits, aqueducts, or other works for that purpose, leaving said lands, streets, highways, roads, lanes and

May hold real estate.

Lay pipes, &c

public squares, in the same condition, as nearly 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, court yard or building lot, without the written consent of the owner thereof.

Survey to be made of land to be used, &c.

§ 9. Before entering, taking or using any lands or water for the purpose 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 each owner and occupant intended to be taken and 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 Montgomery; notice of the time and place of filing the same shall be given by said company to each person whose land or water it is proposed to take, such notice to be served in the manner provided in the next section of this act. 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.

Supreme court to appoint three commissioners, &c.

§ 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 purposes thereof, the directors upon giving such notice as hereinafter required to be given by the commissioners, may apply to the supreme court at any term or session thereof, held in the county of Montgomery, or to the county court of the county of Montgomery, for the appointment of three disinterested commissioners, who are hereby authorised to determine the compensation to be paid for 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, 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 said commissioners shall give to the owners of said land and water a notice of at least twenty days of the time and place of their meeting. Such notice may be served upon said owners personally, or by leaving the

same at their dwelling, 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 one newspaper in the village of Fort Plain, and 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 said commissioners, and take care of their interest 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 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 two 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, or if not sworn and testifying, whom the commissioners shall certify was properly and necessarily subpoenaed, the sum of fifty 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 of the said county commissioners, may appeal to the supreme court or the county court, from an 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 same appeal, and may confirm the proceedings of the commissioners in relation to taking any lands or water, in whole or in part, or may increase or diminish the amount of compensation awarded by the said commissioners, and if

Appeals.

their 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 proceeding 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.

Payment  
to persons  
entitled, &c.

§ 12. 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 said person, in such bank as may be appointed by 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 the village of Fort Plain, 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 cannot be found, or shall refuse to receive the same, then by deposit in bank, as aforesaid.

Company  
to hold  
lands and  
water, &c.

§ 13. The said company shall take and hold, for the purposes contemplated by this act, all the lands, waters and real estate which they shall any way legally enter upon and take by virtue hereof, to them and their successors, during the continuance of this corporation.

To conform  
to regula-  
tions of  
trustees of  
village.

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

Forfeitures

§ 15. The directors of said company may establish rules and regulations for and concerning the use of the water from their works, so as to preserve the same from waste, and may thereby impose penalties and forfeitures for any violation of said rules and regulations, so that said penalty or forfeiture shall not in any case exceed five dollars, which penalty or penalties may be recovered from the person or persons violating said rules, with costs, in the name of the company, before any justice of the peace.

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 such publication of the same, made by any one of the publishers of said paper or by a foreman in said office, shall be received as evidence in all courts and places.

§ 16. Said company shall furnish water to the trustees of the said village for extinguishing fires and other purposes upon such terms as may be agreed upon between the said trustees and the company, and in case they cannot agree on such terms, said trustees may apply to the court as provided in section ten in this act, for the appointment of three commissioners, who shall prescribe the terms upon which water shall be furnished, and said company shall furnish water upon the terms so prescribed, for the period of three years, at the expiration of which time a new commission may be applied for by the trustees in their discretion, and thereafter, once in three years, a like application may be made. The company may make any agreements, contracts, grants and leases for the sale, use and distribution of water, that may be agreed upon between said company and individuals, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

To furnish water for extinguishing fires in village.

§ 17. Any person who shall maliciously or wilfully destroy or injure 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 water 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.

Powers, &c

§ 19. The stockholders of said company shall be individually liable for the payment of the debts of said com-

Liability.



pany to an amount equal to the amount of the stock they severally shall have subscribed or held in said company, over and above such stock, to be recovered of the stockholder who is such when the debt is contracted, or of any subsequent stockholder; and any stockholder who may have paid any demands against said company, either voluntarily or by compulsion, shall have a right to resort to the rest of the stockholders who were liable to contribution.

No administrator, &c. to be liable as a stockholder.

§ 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 said stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate 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.

Contracts to be in writing.

§ 21. Every contract to be made under this act, by which said company shall obtain credit, shall be in writing, and there shall be attached to the copy of said contract delivered to the creditor, a printed copy of the twenty-first section of this act.

§ 22. This act shall take effect immediately.

## Chap 514.

AN ACT for the preservation of fish in the waters of Crooked Lake.

Passed April 15, 1857.

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

SECTION 1. No person shall take, catch or procure with any seine or other net, any fish in any part of the waters of the Crooked lake or in the outlet thereof.