

L A W S
OF THE
STATE OF NEW-YORK.
PASSED AT THE
SEVENTY-FOURTH SESSION
OF THE
LEGISLATURE:

THE REGULAR SESSION BEGUN THE SEVENTH DAY OF JANUARY
AND ENDED THE SEVENTEENTH DAY OF APRIL, 1851,
AND THE SPECIAL SESSION BEGUN THE TENTH DAY OF JUNE AND
ENDED THE ELEVENTH DAY OF JULY, 1851, AT ALBANY.

[N. B. The Laws passed at the Special Session commence on Page 483.]



ALBANY:
PRINTED BY CHARLES VAN BENTHUYSEN,
FOR
GOULD, BANKS & CO., 475 BROADWAY, ALBANY;
AND
BANKS, GOULD & CO., 14 NASSAU ST., NEW-YORK
1851.

Chap. 70.

AN ACT to incorporate the Frankfort Waterworks Company.

Passed March 29, 1851, "three-fifths being present."

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

§ 1. William T. Sheldon, William R. Stevens, Erastus T. Wollcutt, Daniel Mason and Ely T. Marsh, and all such persons as are or may hereafter be associated with them, are constituted a body corporate, by the name of the Frankfort Waterworks Company.

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

Capital stock.

§ 3. Books of subscription for the capital stock of said corporation shall be opened under the direction of the directors hereinafter 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 on the books of the company.

Books of subscription.

§ 4. The concerns of said corporation shall be managed by five directors, who shall be stockholders and residents of the village of Frankfort, and 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 January, 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-one. Three weeks' notice of such election shall be given by posting up three or more notices in the most 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. Voting shall be by ballot, and may be in person or by proxy.

Directors.

How chosen.

First election.

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

Officers.

By-laws.

Payment
of sub-
scription.

§ 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 said payments shall be posted for four weeks previous to said time.

Directors,
term of of-
fice of.

§ 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-one, and until others are chosen in their places; and in case of vacancy in the direction, by reason of the death, resignation or removal from the village of Frankfort of any director, or of his ceasing to be a stockholder, it may be filled by the remaining directors until the next annual election. The directors herein named may appoint three

Inspectors
of election.

persons, who shall be stockholders, to be inspectors at the first election; after which, the stockholders shall choose three such inspectors at the annual election. If no inspectors are chosen, the directors may appoint them 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 any other day, in such manner as shall be prescribed by the directors, or provided for by the by-laws.

Vacancies
how filled.

Real estate
to be pur-
chased.

§ 8. For the purpose of supplying the said village of Frankfort 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 purpose, and may take the water from any springs, ponds, fountains or streams, and divert 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

Property to
be held.

Right of
way.

any lands, streets, highways, roads, lanes or public squares through which they may deem it proper to convey the water from said springs, fountains, ponds, streams, wells and reservoirs, and lay and construct any pipes, conduits, aqueducts or other works for that purpose, leaving the said lands, streets, highways, roads, lanes and 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 the village of Frankfort, lay and construct said pipes, conduits, aqueducts and other works through any private garden, court-yard or building lot.

§ 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 each 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 Herkimer.

Map and survey of route.

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.

§ 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 session thereof, held in the fifth 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, 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

Damages to real estate how ascertained.

Notice of hearing.

Subpoenas subpoenas to compel the attendance of witnesses to testify before them and they or any 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 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 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 travel in going and returning if living more than three miles from the place of meeting.

Appeal from decision of commissioners.

§ 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 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, proceed to hear the said appeal and may confirm the proceedings of the commissioners or set the same aside and order a new appraisement by the same or other commissioners to be appointed by the court; 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.

Effect of final award

§ 12. Upon the payment or legal tender of the compensation finally awarded, as aforesaid, 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 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 two newspapers published in said county 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.

§ 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. Title to real estate.

§ 14. The said directors of said company may establish rules and regulations for and concerning the conduct and government 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 or forfeiture shall not in any case exceed five dollars, which penalties may be recovered with the costs in the name of the company, before any justice of the peace of said county. Said rules and regulations shall be published for three weeks successively in one newspaper published in said county, and a copy of said rules and regulations certified by the president or secretary of said company with affidavits of said publication of the same made by the publisher of said paper or by a foreman in his office, shall be received as evidence in all courts and places. By-law.

§ 15. 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. Penalty for injuring works.

§ 16. 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. Powers.

§ 17. All the stockholders of the company hereby created shall be severally 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 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 Personal liability.

of said company under this act or the corporation hereby created shall be dissolved.

Certificates
of capital
stock.

§ 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 Herkimer county.

Liability
for labor.

§ 19. 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.

§ 20. The indebtedness of said company shall not at any time exceed an amount equal to seventy-five 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 such company.

Liability of
trustees.

§ 21. 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 represent 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.

Limitation
of liability.

§ 22. No stockholder shall be personally liable for the payment of any debt contracted by said company which is not to be paid within one year from the time the debt is contracted, nor 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 who shall cease to be a stockholder in said company for any debt so contracted unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in such

company, nor shall any suit be brought against any stockholder until an execution against the company shall be returned unsatisfied in whole or in part.

§ 23. This act shall take effect immediately.

Chap. 71.

AN ACT to confirm certain acts of school district number twelve, in the village of Medina, relative to raising money to complete the school house..

Passed March 29, 1851, "three-fifths being present."

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

§ 1. The acts of school district number twelve, formed partly out of the town of Shelby and partly out of the town of Ridgeway, in the county of Orleans, at the annual meeting in the month of October, one thousand eight hundred and fifty, relative to the raising of a sum of money necessary to complete the school house in said district and furnishing the same, are hereby declared legal and valid; and the board of education of the village of Medina are authorized to assess, levy and collect a tax in the mode provided by law, equal in amount to the sum so voted to be raised in said district number twelve, at said annual meeting; such assessment may be made at any time within three months after the passage of this act. And the moneys so raised shall be applied exclusively to the object for which the same was voted at said annual meeting in said district. Proceedings legalized.

§ 2. The board of education in said village of Medina, are further authorized to assess, levy and collect, at the same time and in the same manner provided in the first section of this act, such additional sum not exceeding the sum of two hundred and fifty dollars, as may be required to pay and discharge any debt or liability incurred by said board in erecting a school house in said district, and the moneys so assessed and collected, shall be applied to the payment of such debts as shall have been so contracted before the first day of January, one thousand eight hundred and fifty-one.

§ 3. This act shall take effect immediately.