

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:
VAN BENTHUYSEN, PRINTER.

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1857.

Chap. 539.

AN ACT to incorporate the Fredonia Gas Light and Water Works company.

Passed April 15, 1857.

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

Corporation.

SECTION 1. Rosell Greene, Orson Stiles, Thomas W. Glisan, Isaac George, Stepher Palmer, Preston Barmore, George W. Lewis, and all such persons as are or may hereafter be associated with them, shall be and are hereby created and constituted a body politic and corporate by the name of "The Fredonia Gas Light and Water Works company."

Stock and shares.

§ 2. The capital stock of said company shall be ten 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, but not to exceed twenty thousand dollars.

Subscription.

§ 3. Books of subscription to the capital stock of said company shall be opened, under the direction of the directors hereinafter named, and subject to such rules and regulations as they may prescribe; and the said company may receive in lieu of cash subscriptions, property suitable to be used for its purposes, at a valuation to be agreed upon; and the stock of said company shall be deemed and considered personal property, and shall be assignable and transferable on the books of the company.

Directors.

§ 4. The property and concerns of said company shall be managed and conducted by or under the direction of seven directors, who shall be stockholders, and a majority of them residents of the town of Pomfret, 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 of May, A. D. eighteen hundred and fifty-eight, and on the first Wednesday of May in each year thereafter, at such place in the village of Fredonia, and at such hour of the day as the directors for the time being shall appoint. Notice of

such elections shall be published once in each week for four 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 at least twenty days next previous to an election; voting shall be by ballot and may be in person or by proxy.

§ 5. The seven persons named in the first section of this act, shall be the first directors, and shall manage the affairs of said company and hold their offices until the first Wednesday of May-eighteen hundred and fifty-eight, and until others are chosen in their places. In case of a vacancy at any time 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 Pomfret, it may be filled by the remaining directors, for the unexpired term; 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 election; if no inspectors are so chosen, the directors may appoint them from time to time. 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 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 shall annually appoint a president, secretary, treasurer and an engineer, 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 stead, 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.

§ 7. The directors may require payments of subscriptions 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 said time, at least once in each week, in one of

First directors.

Officers.

Payment of subscribers.

the newspapers published in the village of Fredonia, in the county of Chautauque.

Gas and
water.

§ 8. For the purposes of collecting natural or hydrogen gas, and supplying the said village of Fredonia with the same, and also with pure and wholesome water, the said company may lease, purchase, take and hold any real estate, and by their directors, officers, agents, or other employees, may enter upon the land of any person or persons which may be necessary for said purposes, and may collect and take the water and gas, or either or both of them, from any springs, ponds, fountains, wells, creeks or streams, and divert, conduct and convey the same to the said village, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs or other works or machinery necessary or proper for either or both of said purposes, upon any lands so entered upon, leased, 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 conduct and convey the water and gas, or either of them, from said springs, ponds, fountains, creeks, streams, wells and reservoirs, and lay and construct any pipes, conduits, aqueducts, or other works for said purposes, 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.

Lands for
gas and
water.

§ 9. Before entering, taking or using any lands, or gas or water, 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 so 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 as aforesaid, shall be designated, and which map shall be signed by the surveyor or engineer making the same, and by the president of the company, and be filed in the office of the clerk of the county of Chautauque. The company, by any of its officers, agents or employees, 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, gas or water, intended to be collected, taken or used as aforesaid, for

the lease or purchase thereof, the directors may apply to the supreme court, at any term or session thereof, held in the eighth judicial district, or to the county court, of the county of Chautauque, 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 collecting, taking, and using said lands, gas 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 courts 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, gas 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 the county of Chautauque, 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 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, and 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.

Appeals.

§ 11. The said company, or any party to the proceedings of the said commissioners may appeal to the supreme court or the county court, 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 written 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 said appeal, and may confirm the proceedings of the commissioners, 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 a new proceeding and appraisal; 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.

Legal tender, &c.

§ 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 and take possession of, for either or all of the purposes contemplated by this act, all the lands, waters, gas springs and real estate, for which said compensation shall be paid or tendered as aforesaid, and to hold or use the same for either or all of 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 or her, 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 Fredonia 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 cannot be found, or shall refuse to receive the same, then by deposit in a bank as aforesaid.

§ 13. The said company shall also take and hold, for the purposes contemplated by this act, all the lands, waters, gas springs and real estate, which they may require, by purchase, lease or consent of owners, and which they shall in any way legally enter upon and take by virtue hereof, to them and their successors forever.

To hold
lands.

§ 14. The said directors of said company may establish rules and regulations for and concerning the use of the gas and water from their works, and for and concerning the conduct of all such persons as shall use the gas and water from their works, so far as respects the preservation and use of the same, 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 the costs, in the name of the company, before any justice of the peace of the town of Pomfret; said rules and regulations shall be published for four weeks successively, in one newspaper published in said town, 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 of the publishers of said paper, or by a foreman in their office, shall be received as evidence in all courts and places.

Rules and
regulations

§ 15. The said company may make any agreements, contracts, grants and leases, for the sale, use and distribution of gas and water, or either of them, 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, and no individual, company, association or corporation shall take or use the said gas and water, or either of them, except upon complying with the aforesaid rules and regulations and paying the rates fixed by the same.

Contracts
&c.

Wilful destruction of works or property of corporation

§ 16. 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 gas and water, or either, 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.

Liability of stockholders.

§ 17. The stockholders of said company shall be jointly and individually liable for the payment of the debts of said company, 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 legal demand against said company, either voluntarily and with the consent of the directors, or by compulsion, shall have a right to resort to the rest of the stockholders who are liable to contribution.

§ 18. 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 six years 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 be returned unsatisfied in whole or in part.

§ 19. 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 the 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, in such capacity, 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.

§ 20. 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.

§ 21. This act shall take effect immediately.

Chap. 540.

AN ACT to release certain escheated lands to Edward Duerden.

Passed April 15, 1857, by a two-third vote.

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

SECTION 1. All the right, title, interest, and property of the people of this state, acquired by escheat in and to one hundred and ten acres of great lot number ten, in great tract number one of township number eleven of Scriba's patent, in the county of Oswego, of which James Duerden died possessed, is hereby released to and vested in Edward Duerden, his heirs and assigns, forever.

§ 2. Nothing herein contained shall prejudice the rights of any heir of James Duerden, or of any creditor or purchaser in good faith, or of any person who may have purchased the said premises or any part thereof at a tax sale, or of any person claiming the title under said James Duerden.

§ 3. This act shall take effect immediately.