

L A W S
OF THE
STATE OF NEW-YORK

PASSED AT THE
SEVENTY-SEVENTH SESSION

OF THE
LEGISLATURE,

BEGUN THE THIRD DAY OF JANUARY, AND ENDED THE SEVENTEENTH DAY OF
APRIL, 1854, AT THE CITY OF ALBANY.



ALBANY:
GOULD, BANKS & CO., 475 BROADWAY.

NEW-YORK:
BANKS, GOULD & CO., 144 NASSAU-STREET.

1854.

Chap. 14.

AN ACT to incorporate the *Howard Water-Works Company.*

PASSED February 8, 1854.

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

§ 1. Aaron McConnell, Ira Lane, Lyman Jones, Asa McConnell, Jacob Hannah and Alexander Jones, and all such persons as are or may be hereafter associated with them, shall be and hereby are constituted a body corporate by the name of the Howard Water-Works Company. Name.

§ 2. The capital stock of said company shall be one 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 ten thousand dollars. Capital stock.

§ 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 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. Subscriptions.

§ 4. The concerns of said company shall be managed by six directors, who shall be stockholders and residents of the town of Howard, in the county of Steuben, and who shall hold their office 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 Howard 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 the county of Steuben. Each stockholder shall be entitled to one vote upon each share of stock held by him or her at the time of, and which shall have been held by him or her for thirty days next previous to, such election. The elections shall be by ballot, and votes may be given either in person or by proxy. Directors.
Elections.

Vacancies,
how filled.

§ 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-five, 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 Howard, 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 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 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.

Payments of
stock.

§ 6. The directors may require payment 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 the time so fixed, at least once in each week, in one newspaper published in the village of Bath, in the county of Steuben.

Officers.

§ 7. The directors shall annually appoint a president, a 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 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.

Real estate
and prop-
erty.

§ 8. For the purpose of supplying the village of Howard, in the county of Steuben, with pure and wholesome water, the said company may purchase, take and hold 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 engineer, 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 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 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.

§ 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 Steuben. 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.

Lands, how
to be taken.

§ 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 Steuben, or to the county court of the county of Steuben, for the appointment of three disinterested commissioners, who are hereby authorized to determine what compensation is 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 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

Commissioners to
appraise
lands.

meeting, to be served upon such 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 one newspaper in the county of Steuben; 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 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.

Appeal.

§ 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 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, 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 their proceedings in any case have been irregular, the court may set the

same aside and order a new proceeding and appraisalment; and the said court may make such orders in reference to the proceedings 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.

§ 12. Upon the payment or legal tender of the compensation awarded by said commissioners, or in case of 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 to which said compensation shall be made or tendered as aforesaid, and to hold or use the same, for the said purpose, 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 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 county of Steuben, 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.

Award, how to be paid.

§ 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 any way legally enter upon and take by virtue hereof, to them and their successors, during the continuance of this corporation, and also take and hold any lands they may acquire by purchase or the consent of owners, and they are authorized to erect any reservoir upon the public square of said village; and all grants heretofore made to any of the above named directors, for the purpose of supplying said village with water, are hereby confirmed.

Lands, how long to be held.

§ 14. 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

Use and sale of water.

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 county, 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. 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; and no individual, company, association or corporation shall use the said water, except upon complying with the aforesaid rules and regulations and paying the rate fixed by the same.

Penalty for
injuring
water-works

§ 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, 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.

Powers.

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

Liabilities
of stock-
holders.

§ 17. The stockholders of said company shall be 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 demand against said company, either voluntarily or by compulsion, shall have a right to resort to the rest of the stockholders who are liable to contribution.

Liabilities of
executors,
&c.

§ 18. 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.

§ 19. 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 nineteenth section of this act.

Contracts
to be in
writing.

§ 20. This act shall take effect immediately.

Chap. 15.

AN ACT to authorize the Watervliet Plank Road Company to abandon that portion of their road lying within the bounds of the corporation of West Troy, and to amend their charter.

PASSED February 15, 1854.

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

§ 1. The Watervliet Plank Road Company are hereby authorized to abandon that portion of their road lying within the bounds of the village of West Troy.

§ 2. The said company are also authorized to relay any part of their road, in lieu of plank, with broken stone, hard shells, or other hard material, whereby they keep a good and substantial road.

§ 3. This act shall take effect immediately.