

L A W S

STATE OF

COURT OF APPEALS
OF THE
CONSULTATION ROOM
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PASSED AT THE

FIFTY-SIXTH SESSION

OF THE

LEGISLATURE,

BEGUN AND HELD AT THE CITY OF ALBANY,

THE FIRST DAY OF JANUARY, 1833.



ALBANY:

PRINTED BY E. CROSWELL, PRINTER TO THE STATE,
FOR
WM. & A. GOULD & CO. ALBANY,
AND
GOULD, BANKS & CO. LAW BOOKSELLERS, NEW-YORK.

.....
1833.

Titles con-
firmed.

§ 2. The right or title of the said corporation, or of any person or persons claiming or to claim by, from or under them, to any lands or real estate, shall not be defeated or prejudiced by reason of such name or title of the said corporation not having been expressed in such certificate.

CHAP. 286.

AN ACT to incorporate the *Bellinger water-works company at Little-Falls.*

Passed April 29, 1833. .

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

Corporation
created.

§ 1. Christopher P. Bellinger, Richard N. Casler, Henry Heath, George H. Feeter, John Dygert, Moses Drake, Zenas C. Priest and Arphaxed Loomis, and all such persons as now are or hereafter may be appointed with them or shall become stockholders, are hereby constituted a body corporate, by the name of "The Bellinger Water-works Company in the town of Little-Falls."

Stock.

§ 2. The capital stock of said company shall be two hundred* thousand dollars, to be divided into two hundred shares of ten dollars each.

Trustees.

§ 3. The stock, property and concerns of the said corporation shall be managed and conducted by nine trustees, being stockholders, and residents of the village of Little-Falls, in the county of Herkimer, which trustees shall hold their offices for one year, and until others shall be chosen, and shall be chosen on the first Tuesday in June, in each and every year, at such time of day, and place in the village of Little-Falls, as the trustees for the time being, shall appoint; of which election, notice shall be given at six or more of the most public places in the village, at least eight days previous to such election; and such election shall be holden under the inspection of those* stockholders, who shall not be trustees, and who shall be appointed by the trustees, and shall be made by ballot, by a majority of votes of the stockholders present, allowing one vote for every share up to ten shares, and one' vote for every five shares that any stockholder may have over ten shares, and the stockholders not present may vote by proxy; and the trustees chosen at any election, shall meet as soon as may be after every election, and choose one of their body to be president, who shall preside for one year,

* So in the original.

and in case the office of president or trustee shall at any time for any cause become vacant, such vacancy shall and may be filled from among the stockholders being residents of said village, by the remaining trustees for the remainder of the year.

§ 4. The first trustees shall be Christopher P. Bellinger, Richard N. Casler, Henry Heath, Moses Drake, John Dygert, George H. Feeter, Zenas C. Priest, Arphaxed Loomis and Samuel W. Shepard. First trustees

§ 5. It shall be lawful, and the trustees are hereby authorised in their discretion, to appoint and employ a clerk, a treasurer and superintendent, and such other officers, agents and servants, as they shall from time to time deem necessary and proper to promote the objects of this corporation, and for carrying into effect the powers vested in it; to declare dividends on the stock of the said company; to establish rules and regulations by ordinances and by-laws for and concerning the conduct and government of all such persons as shall use the water from these works, so far as respects the preservation of the water furnished by said company, and the use thereof, and to restrain the waste thereof, and by such by-laws and ordinances to impose penalties and forfeitures for any violation of, and any neglect or refusal to comply therewith, so as that such penalties and forfeitures in any one case shall not exceed the sum of ten dollars, which penalties and forfeitures shall be recoverable in the name of the president, the clerk or superintendent, before any justice of the peace in the town of Little-Falls, or in any of the towns adjoining the same, in an action of debt. Other officers

§ 6. For the purpose of effectually supplying with water that part of the said village lying on the south side of the Mohawk river, it may and shall be lawful to and for the said trustees and company, to enter into and upon the lands of any person or persons, bodies politic and corporate, within the corporation of the village of Little-Falls, to take the water and lay and construct any number of conduits necessary for and calculated to supply such water, through or over any lands, roads, streets and highways, and to plan and erect any machinery and reservoirs for raising and containing the water, as the said trustees shall deem necessary and useful; but the said trustees and company shall not take or divert any water or works, or enter upon any lands, springs, streets, roads or plans for using water, or interfere with any conduits or other works now or hereafter belonging to the board of managers of the aqueduct association of the village of Little-Falls and company heretofore incorporated as the aque- Lands.

duct association of the village of Little-Falls, in the county of Herkimer, and on the north side of the Mohawk river; nor shall said trustees and company take any springs on the lands of any person, or use the waters thereof, except as hereafter provided.

How to be appraised.

§ 7. In every case when the owner of any water or land so required to be taken shall not be a resident of the town of Little-Falls, or shall not for any causes be capable in law to agree, or shall refuse to agree upon the value of water or land to be taken and used as aforesaid, the damages to the owners shall be ascertained in manner following: The circuit judge of the fifth circuit, or one of the judges of the court of common pleas in and for the county of Herkimer, not interested in the stock of the said company, upon application of the president and trustees of said company, shall, by an instrument in writing, signed by such circuit judge, or any of the judges of said court of common pleas, appoint three freeholders of the town of Little-Falls, not interested in the stock of said company or the waters and lands to be used and taken, as appraisers. Notice of such application shall be given to the owner in such manner as such circuit judge or judge of said court of common pleas shall direct. If the said president, trustees and company shall give notice to the appraisers, and they, or any two of them, shall name a day for meeting, which shall not be more than twenty nor less than ten days from such notice of their appointment; and the said president and trustees shall give notice in writing, at least ten days, to the owners of the water or land required to be taken, of the time and place of meeting appointed by the appraisers; but if such owners shall be absent, or subject to any legal disability to contract, such notice may be left at the dwelling-house of such owner, or with the guardian of any infant, or committee of any lunatic. Each appraiser, before he shall proceed to execute his trust, shall take and subscribe, in writing, before any justice of the peace of the town of Little-Falls, the oath or affirmation prescribed in the constitution of this state. The appraisers shall then proceed to view the waters and premises required to be taken and used by the said president and trustees, if, in the opinion of the said appraisers it shall be necessary, and without favor or partiality, they shall assess the damages sustained by the respective owners of the water and lands deemed necessary by the said president and trustees to be taken and used for the purposes intended by this act. The said appraisers shall make a report, in writing, under their hands and seals, or the hands and seals of any two of them, describing particularly the water and the land pro-

posed to be taken as aforesaid, stating the amount of damages, if any, which each owner of the water or lands so taken and appraised will sustain in consequence thereof; and within twenty days from the time of making such appraisal, the said appraisers shall acknowledge the same before a judge of the court of common pleas or commissioner of deeds, and cause the same to be filed in the clerk's office of Herkimer county.

§ 8. The president and trustees, upon payment of the several sums so appraised as damages in the report of the said appraisers, or upon making a legal tender thereof when the money shall be refused, shall be entitled to take the water and enter upon the lands described in the said report, and shall have and hold the same, to them, their successors and assigns, forever, for the purposes intended by this act, and no other.

On payment
to take pos-
session.

§ 9. If any parcel of land so described as aforesaid shall be taken, and there shall be no person then living authorised to receive the damages assessed therefor, and such damages shall not have been lawfully demanded within ten days after filing such report, the president and trustees shall pay the same into the court of chancery.

Non-resi-
dents.

§ 10. The rights of the said president, trustees and company to take land, use water, to do all necessary acts for the purpose of carrying the provisions of this act into effect, shall not extend out of the following boundaries, to wit: To commence in the first bend of the Erie canal below lock number ten, in the village of Little-Falls, on the south bank of the Erie canal, directly opposite of the whirling post, and from thence directly south, to a point four rods south of the old Fall hill turnpike road; from thence west to the southwest corner of the bounds of the corporation of the village of Little-Falls, on a line parallel with said turnpike; and from thence north, to the bank of the Mohawk river; and from thence east, following the course of the said river, to the place of beginning.

Boundaries.

§ 11. The said president and trustees are hereby authorised to agree for and purchase any water and lands necessary and proper for their works, with the owner or owners thereof, and take proper conveyances therefor, and shall have and hold the same, to them, their successors and assigns, forever.

Water and
lands.

§ 12. Every person who shall become a stockholder in said company, shall, on due notice having been given to pay in the amount subscribed by them, pay in the same in the manner and within the time to be specified by the president and trustees of said company.

Calls on
stockholders.

Conduits.

§ 13. It shall be lawful for the said president and trustees to conduct and lay their conduits below the surface of any street or public highway in the village of Little-Falls, and subject to the direction of the corporation of the village of Little-Falls, putting such streets or highway in as good condition as the same was before such conduits were laid, and without unreasonable delay.

General provisions.

§ 14. The corporation created by this act shall have the rights and powers, and be subject to the operations of the provisions contained in the third title of the eighteenth chapter of the first part of the Revised Statutes.

Rights reserved.

§ 15. The legislature may at any time alter, modify or repeal this act, or any of its provisions.

CHAP. 287.

AN ACT to amend an act entitled "*An act to vest certain powers in the freeholders and inhabitants of the village of Vernon.*"

Passed April 29, 1833.

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

Vacancies

§ 1. In case of a vacancy of any of the officers elected, chosen, or otherwise created by virtue of this act, or the act hereby amended, it shall be the duty of the board of trustees, by a warrant under the hand of the president thereof, to appoint some suitable person to fill such vacancy; and the person so appointed shall have like powers and be subject to the same restrictions, as if elected or appointed in the manner provided by said act.

Taxes.

§ 2. All assessments for taxes may be made by any two of the assessors to be chosen by virtue of the said act hereby amended, and if the tax to be assessed be for local improvements, the same shall be assessed upon the real estate of the inhabitants of said village who are to be benefited thereby, in proportion to the value thereof and the benefits to be derived therefrom. All assessments for the general purposes of said village shall be made upon all the taxable real and personal property in said village, according to the value thereof, as near as may be. The trustees shall determine who and what property is to be assessed, and furnish the assessors with a list containing the names of all such persons and the amount to be assessed, and specify whether the same is for a general or local improvement, and the assessors shall be governed thereby