

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETIETH SESSION

OF THE
LEGISLATURE;

BEGUN JANUARY FIRST, AND ENDED APRIL TWENTIETH, 1867,
IN THE CITY OF ALBANY.

VOL. I.



BANKS & BROTHERS, LAW PUBLISHERS,
NEW YORK:
NO. 144 NASSAU STREET.

ALBANY:
NO. 475 BROADWAY.

1867.

Chap. 159.

AN ACT to incorporate the Mount Morris Water-Works Company.

Passed March 26, 1867.

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

Corpora-
tors.

SECTION 1. George W. Phelps, Alexander C. Campbell, Joseph H. Boeline, John R. Marsh, Alfred J. Moss, Lucius C. Bingham and McNeil Seymour, and all such persons as are or may be hereafter associated with them, are constituted a body corporate, by the name of the Mount Morris water-works company.

Capital
stock.

§ 2. The capital stock of said company shall be ten thousand dollars, to be divided into shares of twenty-five dollars each, and said capital stock may be hereafter raised to twenty-five thousand dollars, should the directors of said company at any time hereafter direct; the said capital stock of said company shall be considered personal property, and shall be assignable and transferable on the books of the corporation.

Time and
place of re-
ceiving sub-
scriptions.

§ 3. A majority of the persons named in the first section of this act shall meet at such place as they may select in the village of Mount Morris, Livingston county, on the first Monday of May next (or such other day as they may select) upon giving two weeks notice thereof in a newspaper printed in said village, and receive subscriptions to the capital stock of said company, and may adjourn such meetings from time to time until the whole amount of such capital stock shall be subscribed; and in case more than the number of shares authorized by this act shall be subscribed, they shall apportion the same among the subscribers as they shall think best for the interest of the company.

Directors.

§ 4. The concerns of said corporation shall be managed by seven directors, who shall be stockholders in said corporation, four of whom shall constitute a quorum for the transaction of business, and who shall hold their offices for one year, and until others

are chosen in their places; the directors shall be chosen annually, in the village of Mount Morris, on the first Monday of May, at such time of day and place in said village as the directors for the time being may appoint; the first election shall be held on the first Monday of May, eighteen hundred and sixty-eight; two weeks' notice of such election shall be given, by a publication, at least once in each week, in a 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 ten days previous to an election; voting shall be by ballot, and may be in person or by proxy.

Time and place of election of directors.

§ 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, not contrary to the constitution and laws of the State.

Officers of company; by-laws, &c.

§ 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 such payment shall be published for two weeks previous to said time at least once in each week in a newspaper published in said village, or by notice in writing, served personally upon each subscriber to such stock, at least two weeks prior to said time of payment.

Notice of payment of subscriptions.

§ 7. The persons named in the first section of this act shall be the first directors of said corporation, and shall hold their office until the first Monday of May, one thousand eight hundred and sixty-eight, and until others are chosen in their places, and in case of vacancy in the direction by reason of the death or resignation of any director, or by his ceasing to be a stockholder, it may be filled by the remaining directors until the next annual election, or until some other person shall be elected to fill the place. The

First directors.

Vacancies.

directors herein named may appoint three persons, who shall be stockholders, to be inspectors of election at the first election of directors, after which the stockholders shall choose three such inspectors at the annual election. If no inspectors shall be chosen at any annual election, 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 office. If at any time an election of directors does not take place on the day appointed by this act, the corporation shall not in that case 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, by giving two weeks' previous notice thereof in a newspaper printed in said village.

Inspectors
of election

Entrance
upon lands
for purposes
of corpora-
tion.

§ 8. For the purpose of supplying the village of Mount Morris with pure and wholesome water, the said company may purchase, take and hold any real estate necessary for the purpose, 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, rivers, 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 work or machinery necessary and 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 carry the water from said springs, fountains, ponds, rivers, 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 said village, 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.

Through
what, pipes
shall not be
laid without
consent of
owner.

§ 9. Before entering, taking or using any land or water for the purposes of this act, the directors of said 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 Livingston; the said company, by any of its officers, agents or servants, may enter upon any lands for the purpose of making said survey and map, doing no unnecessary damage.

Survey and map of lands to be used, &c.

§ 10. In case the said company cannot agree with the said owners or occupants of any lands or water intended to be taken or used as aforesaid, for the purchase thereof, the directors may apply to any court of record, at any term or session thereof held in the seventh 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 the commissioners, the said court may appoint others in their place; the commissioners so appointed shall cause a notice, of at least twenty days, of the time and place of their meeting, to be served upon the owners of said land or 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 the guardian or person appointed to act for him or her; and in case any of said owners cannot be found in this State, such notice shall be given by publishing such notice for six successive weeks, in a newspaper printed in said village; the said commissioners may issue subpoenas to compel the attendance of witnesses to testify

When court to appoint commissioners of damages.

Notice by said commissioners of place of meeting.

Proceeding on hearing.

before them, and they, or any one of them, may administer the usual oath to such witnesses; upon the closing of the proofs before them, 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 subpoenaed, the sum of fifty cents per day, and four cents per mile travel in going and returning from their residences, if living more than three miles from the place of meeting.

Pay of commissioners; witnesses, &c.

Appeal from judgment 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, providing 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, which said appeal may be taken to any court of record in the seventh judicial district, and the said court shall examine the report of the commissioners, and if their proceedings in the case have been irregular, the court may set the same aside, and order new proceedings and appraisement, and the said court may make such orders in reference to the proceedings of the commissioners, and of notices to be given to the parties, as may not be inconsistent with this act, and as the nature of the case and the interest of the parties may require, and the said commissioners shall again examine the case, and their decision then made shall be final. If at any time after an attempted or actual ascertainment of compensation under this act, or any purchase of any lands or water for the use of said company, the title acquired to all or any part of said land or water shall fail or be deemed defective, the said company may proceed anew to perfect such title by procuring an ascertainment of the compensation

Proceeding in case of defective title.

proper to be made to any person or persons, whose title, claim or interest in a lien upon such lands shall not have been compensated and extinguished according to law, and by making payment thereof in the manner herein provided, as near as may be.

§ 12. Upon the payment or legal tender of the compensation determined, as before provided, the said company shall be entitled to enter upon, for the purposes contemplated by this act, all the lands, waters and real estate for which such 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 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 a newspaper published in said village, for three 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, payment may be made to his or her guardian, or person appointed as aforesaid by the said court, and if said guardian or person cannot be found, then by deposit in bank, as aforesaid.

Certain sums to be placed in bank.

§ 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.

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

§ 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

Rules, &c.
of com-
pany; pen-
alties for
violation of;
publication
thereof.

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 fifty dollars; which penalties or forfeiture may be recovered from the person or persons violating the said rules, with the costs, in the name of the company, before any justice of the peace of said town of Mount Morris. Said rules and regulations shall be published for three weeks successively, in a newspaper published in said village, and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavit of said publication of the same, made by the publisher of said newspaper, or by a foreman in his office, shall be received as evidence in all courts and places.

Company to
furnish
water for
putting out
fires.

§ 16. Said company shall furnish water to the trustees of the said village, for extinguishing fires, and other purposes, as may be agreed upon between the said trustees and the said company.

Malicious
trespass, &c.

§ 17. Any person who shall maliciously or willfully interfere with, trespass upon, injure or destroy, any of the works or property of said company, or who shall maliciously or willfully commit any act which shall injuriously affect or tend thus to affect the water of said company, shall be guilty of a misdemeanor.

§ 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.

Individual
liability.

§ 19. All the stockholders of the company hereby created shall be severally and 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 shall be paid in and a certificate thereof shall be made and recorded, as prescribed in the following section.

Certificate
of president,
&c.

§ 20. The president and a majority of the directors, within thirty days after the payment of the last installment of capital stock, shall make a certificate of the amount of 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 county clerk's office of the county of Livingston.

§ 21. The stockholders of said company shall be jointly and severally liable for all debts that may be due and owing to their laborers and servants for services performed for said company.

Liability
to tenants.

§ 22. The indebtedness of said company shall not at any time exceed an amount equal to fifty per cent of its capital stock, unless by the consent of the stockholders at a meeting thereof; and if the indebtedness of said company shall at any time exceed such amount without the consent of the stockholders as above mentioned, the directors of such company assenting thereto shall be personally and individually liable for such excess to the creditors of such company.

Indebted-
ness; pen-
alty for
exceeding
certain
amount.

§ 23. No person holding stock in said company as executor, administrator, guardian or trustee, and no person holding stock as collateral security, shall be personally subject to any liability as a stockholder of said company; but the person pledging such 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 administrator, executor, 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: provided, however, that nothing in this act contained shall be construed to authorize the subscription to the capital stock of this company by any person or executor, administrator, guardian or trustee.

Who not to
be consid-
ered person-
ally liable,
&c.

§ 24. The said company may hereafter increase the

Increase of
stock.

capital stock of said company to the sum of twenty-five thousand dollars, as mentioned in section two of this act, by opening the books of said company and receiving subscriptions to said increased capital stock.

§ 25. This act shall take effect immediately.

Chap. 160.

AN ACT to amend an act entitled "An act to incorporate the Union League Club of the city of New York," passed February sixteenth, eighteen hundred and sixty-five.

Passed March 26, 1867.

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

SECTION 1. The third section of the act entitled "An act to incorporate the Union League Club of the City of New York," passed February sixteenth, eighteen hundred and sixty-five, is hereby amended to read as follows :

§ 3. Said corporation may purchase and hold, or lease any real or personal estate necessary and proper for the purposes of its incorporation, provided they shall not hold any real estate, the value of which shall exceed five hundred thousand dollars; and the said corporation may issue bonds, and may execute mortgages upon their real estate to an amount not exceeding the value of such real estate, and the improvements thereon.

Chap. 161.

AN ACT to amend the several acts relating to the village of Geneseo.

Passed March 26, 1867; three-fifths being present.

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

SECTION 1. So much of section twenty-three of an act entitled "An act to condense and amend the sev-