

L A W S

OF THE

STATE OF NEW YORK,

PASSED AT THE

EIGHTY-SIXTH SESSION

OF THE

LEGISLATURE,

BEGUN JANUARY SIXTH, AND ENDED APRIL TWENTY-FIFTH, 1863, IN THE
CITY OF ALBANY.



ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.
1863.

been issued by them or their predecessors, for the collection of any tax or assessment from time to time so often as such warrants shall be returned uncollected.

§ 27. The trustees are hereby authorized to add the collector's fees to any sum of money authorized or directed to be collected by him in said village, and to apportion the same with the other money so to be collected.

Fees of collector.

§ 28. No person shall be an incompetent justice, witness or juror by reason of his being an inhabitant of the village of Frankfort, in any action or proceeding in which said village may be a party or have an interest.

Suits.

§ 29. This act shall take effect immediately.

Chap. 397.

AN ACT to incorporate the Oswego Water Works Company.

Passed May 4, 1863; three-fifths being present.

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

SECTION 1. Thomas Kingsford, Dewitt C. Littlejohn, Delos De Wolf, Samuel B. Johnson, Hamilton Murray, Theodore Irwin, Cheney Ames, John B. Edwards, Abner C. Mattoon, and all such persons as are or may be hereafter associated with them, shall be, and are hereby constituted a body corporate by the name of the Oswego Water Works Company.

Corporators

§ 2. The capital stock of said company shall be seventy-five thousand dollars, and shall be divided into shares of one hundred 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 one hundred and fifty thousand dollars.

Capital.

§ 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.

Books of subscription.

Directors
and election
thereof.

§ 4. The concerns of said company shall be managed by nine directors, who shall be stockholders and residents of the city of Oswego, 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 in each year, at such place in the city of Oswego, and at such hour of the day as the directors for the time being shall appoint. Notice of such election shall be published once in each week, for three weeks immediately preceding such election, in two newspapers published in said city. 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.

1b.

§ 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 sixty-four, and until others are chosen in their places. In case of 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 city of Oswego, 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 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 elections. 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 for by the by-laws or shall be prescribed by the directors.

Payment of
subscriptions.

§ 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 two newspapers published in the city of Oswego.

§ 7. The directors shall annually appoint a president, a secretary and treasurer, 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, rules and regulations as they may deem necessary and proper for the management of their business, and for accomplishing the purposes of the corporation.

Officers and
by-laws.

§ 8. For the purpose of supplying the city of Oswego 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 such water from the Oswego river, or any lake, springs, ponds or streams as may be determined, provided that the diversion of said water from the Oswego river shall in nowise injure the navigation on the Oswego canal or the milling interest of Oswego, by the board of directors of the corporation hereby created, and divert and convey the same to said city, and may lay, construct, alter and repair any pipes, conduits, aqueducts, wells, reservoirs or other piers, pumps, 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 river, lake, springs, ponds, streams, wells and reservoirs, and lay, construct, alter, repair and replace 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 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.

Real estate
may be
obtained.

§ 9. Before entering, taking or using any land or water for the purpose of this act, the directors of this

Survey and
map to be
made of
lands.

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 such owner or occupant intended to be taken or used shall be designated, and which map shall be signed by the engineer making the same and by the president of said company, and be filed in the office of the clerk of Oswego county. 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.

Commissioners to assess damages, and proceedings thereon.

§ 10. In case the company cannot agree with the 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 judge of the county of Oswego for the appointment of three commissioners, by whom the compensation 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 judge 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 reside 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 thereupon, serving notice in like manner upon his or her guardian or person appointed to act for him or her, as hereinafter directed. And in case any of said owners do not reside in this State, such notice shall be given them by publishing the same for four weeks successively in two newspapers published in said city. And if any of said owners shall be married women, insane, infants or idiots, the judge shall appoint some suitable person to attend in their behalf before said commissioners, and take care of their interest in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they may administer the usual oaths to such witnesses. They shall make a written

report of all their proceedings within ten days after the hearing before them, showing the sum awarded to each owner or any other person, and return the same to the said judge to be filed on record in the Oswego county clerk's office. The company shall pay to each commissioner the sum of two dollars per day for each day necessarily spent by him in the performance of his duties under this act, and to each witness sworn and testifying, who the commissioners shall certify were properly subpoenaed, the same fees as allowed in a court of record.

§ 11. The said company, or any party to the proceedings, may appeal from any award or determination, provided the party appealing shall, within ten days after such award or determination shall be made, and notice thereof be served on him or them of the appeal; the said judge shall, upon the report of the commissioners, and upon the additional testimony to be taken by them, if he deems the same to be necessary, proceed to hear said appeals, and may confirm the proceedings of the commissioners, in whole or 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 judge may set the same aside and order new proceedings and appraisal, and the said judge may make such orders in reference to the proceedings of the commissioners and of the 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.

Appeal
from pro-
ceedings.

§ 12. Upon the payment or legal tender of the compensation awarded by the said commissioners, or (in case of an appeal) by the said judge, the company shall be entitled to enter upon, for the purposes contemplated by this act, all the lands, waters and real estate for which said compensation shall be paid or tendered as aforesaid, 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, does not reside in this State, or shall refuse to receive the sum awarded him, then the said payment may be made by depositing the same to the credit of said person in such bank as may be designated by said judge. If the person to whom com-

When com-
pany may
enter upon
lands.

pensation 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 said judge, and if said guardian or person appointed cannot be found by them, by depositing in bank as aforesaid.

Powers of company.

§ 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, and the said company shall have the right to take water from the Oswego river, free of charge, at or beyond the distance of one and a half miles above the iron bridge on Bridge street, in the city of Oswego, and may erect an aqueduct, bridge or such other structures in and across said river as may be found necessary for the purposes contemplated in this act, provided the same shall not obstruct or interfere with the navigation of the Oswego canal.

Regulations of common council.

§ 14. In laying pipes, conduits, or aqueducts, or constructing or erecting works in the streets, lands or public squares of the city of Oswego, the company shall conform to such reasonable regulations as the common council of said city shall prescribe.

Rules and regulations as to use of water.

§ 15. The said directors of said company may establish rules and regulations for and concerning the conduct of all such persons as shall use the water from their works, so far as respects the preservation and restraining he waste the reof, 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 costs, in the name of the company, before any justice of the peace of the city of Oswego, or recorder of said city. Said rules and regulations shall be published, for two weeks successively, in two newspapers published in said city, and a copy of said rules and regulations, certified by the president of the company, with affidavits of the publication of the same made by any one of the publishers of said paper, shall be received as evidence in all courts and places.

Water to extinguish fires.

§ 16. The said company shall furnish water to the city of Oswego for the purpose of extinguishing fires, upon

such terms as may be agreed upon between them and the common council of said city, and the said common council are hereby authorized to contract with said company for water, for the purpose of extinguishing fires, constructing fountains and furnishing public buildings, and to levy and assess the cost thereof, annually, upon the taxable property of said city by general tax. And the said 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 any person or persons, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

Agreements for use of water

§ 17. Any person who shall willfully or maliciously destroy or injure any of the works or property of said company shall be deemed 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.

Punishment for injuring works of company.

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

Revised Statutes applied.

§ 19. The stockholders of the company hereby created shall be individually liable for the payment of the debts of the said company to an amount equal to the amount of stock held by them respectively, until the whole amount of capital stock so fixed and prescribed as above shall have been paid in, and any stockholder who may have paid any demands against said company, either voluntarily or by compulsion, shall have a right to resort to the other stockholders who were liable to contribution.

Liability of stockholders.

§ 20. 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 liable as stockholders of said company, but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholders accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee, shall be

Id.

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.

Increase of capital.

§ 21. If the directors shall at any time after the organization of said company, determine to increase the capital stock, as herein provided, the said new stock shall be divided among the stockholders in proportion to the amount held by them respectively, at the time of such increase, as they shall severally elect, and in case the same shall not be so distributed, then books of subscription for the balance of said additional stock shall be opened in the same manner as provided in section three of this act, and the said directors may require payment of the subscription to the said additional stock, in the same manner as provided in section six of this act.

May borrow money.

§ 22. The said corporation may borrow such sum or sums of money as may be necessary to complete said work, and for other purposes authorized by this act, in the whole not to exceed the amount of capital stock actually paid in and expended, and for that purpose may issue and dispose of their bonds for any amount so borrowed, and the company is hereby authorized to mortgage any or all of their corporate property and privileges to secure the payment of such bonds; and the said directors may confer on the holder of any bond they may issue for any money so borrowed, the right to convert the principal due thereon into stock of the said corporation, at any time, not exceeding five years from the date of said bond, under such regulations as the directors may see fit to adopt; and for such purpose the said corporation are authorized to increase its capital stock to the amount so borrowed, whenever the persons, or any of them, to whom such money is due, shall elect to convert the same into stock; but nothing herein contained shall be construed to authorize an increase of the capital stock of said company beyond the sum of one hundred and fifty thousand dollars.