

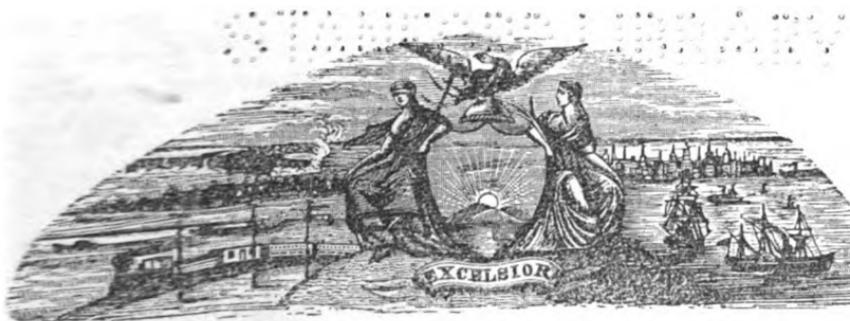
L A W S
OF THE
STATE OF NEW YORK

PASSED AT THE
NINETY-FIRST SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY SEVENTH, AND ENDED MAY SIXTH, 1868,
IN THE CITY OF ALBANY.

VOL. I.



ALBANY:
VAN BENTHUYSEN & SONS' STEAM PRINTING HOUSE.
1868.

Chap. 458.

AN ACT to incorporate the Owego Water Works Company.

Passed April 29, 1868.

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

Corpora-
tors.

SECTION 1. Wheeler H. Bristol, Thomas I. Chatfield, Abraham H. Miller, Thomas C. Platt, Ira A. Post, Frank L. Jones, Frederick O. Cable, John C. Worthington, Henry N. Hubbard, Charles Platt, George B. Goodrich, Jefferson C. Duelle, Robert Cameron, and all such persons as are or may hereafter be associated with them, are constituted a body corporate by the name of the Owego Water Works Company.

Corporate
name.Capital
stock.

§ 2. The capital stock of said company shall be seventy-five thousand dollars, to be divided into shares of one hundred dollars each, and the said company are hereby empowered to increase their capital stock at any time not to exceed one hundred and fifty thousand dollars.

Subscrip-
tions to
stock.

§ 3. Books of subscription for the capital stock of said corporation shall be opened under the direction of the directors hereinafter named, subject to such rules and regulations as they shall prescribe, and the stock shall be considered personal property, and shall be assignable and transferable on the books of the company.

Stock to be
personal
property.Board of
directors.

§ 4. The business of said corporation shall be managed by thirteen directors, who shall be stockholders, and who shall hold their offices for one year and until others are chosen in their places. The directors shall be chosen annually on the first Monday of May, at such time of day and place, in said village of Owego, as the directors for the time being shall appoint. The first election shall be held on the first Wednesday of May, eighteen hundred and sixty-eight. Three weeks' notice of such election shall be given by a publication, at least once in each week, in two newspapers 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

Annual
election.Notice
thereof.Manner of
voting.

twenty days previous to an election. Voting shall be by ballot, and may be in person or by proxy.

§ 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.

Officers.

By-laws.

§ 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 subscriptions shall be published, at least once in each week for four weeks next preceding the time of payment, in two newspapers published in said village.

Payment of subscriptions.

§ 7. The persons named in the first section shall be the first directors and shall hold their offices until the said first Wednesday of May, eighteen 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 of 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 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 chosen the directors may appoint three from time to time. The directors may remove all officers appointed by them, and appoint others in their places, and fill all vacancies in the offices. 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 cause, be dissolved, but an election may be held on another day in such manner as shall be prescribed by the directors, or provided for by the by-laws.

First directors.

Vacancies; how filled.

Inspectors of election.

Directors may remove officers.

Failure to hold election of directors not to dissolve corporation.

Company
may hold
real estate.

§ 8. For the purpose of supplying the said village of Owego 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 the water from any springs, streams, fountains, wells, rivers or lakes, and divert and convey the same to the said village, and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs and other works or machinery necessary or proper for said purpose, upon any lands so entered upon, purchased, taken or held; and 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, streams, fountains, wells, rivers or lakes, and lay and construct any pipes, conduits 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.

May lay
water
pipes.

May enter
upon lands,
streets, etc.

Survey
and map of
lands to be
made.

§ 9. Before entering, taking or using any land 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 such owner or occupant intended to be taken or 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 Tioga. 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.

Company
may ac-
quire lands.

§ 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 purchase thereof, the directors may apply to the supreme court, at any term or session thereof, held in the sixth 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

Commis-
sioners to
appraise
damages.

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 meeting, to be served upon such of the 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, 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 cannot be found in this State, such notice shall be given them by publishing the same at least once in each week for six weeks successively next preceding the time of meeting, in two newspapers published in said village; and if any of said owners shall be married women, insane, infants or idiots the said court shall appoint his or her guardian, in case they have any, or in case they have none, then some other 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 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 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, and if not sworn and testifying, who the commissioners shall certify were properly and necessarily subpoenaed, the sum of one dollar per day and four cents per mile travel in going and returning, if living more than three miles from the place of meeting.

Notice to resident owners of land.

Notice to guardians, non-residents, infants, etc.

Report of commissioners.

Compensation.

Fees of witnesses.

§ 11. The said company or any party to the proceedings of the commissioners may appeal from any award

Appeals.

or determination of the commissioners; provided the party appealing shall, within ten days after any such award or determination shall be made, give notice in writing 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, 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 new proceedings and appraisement; and the said court 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.

When company shall be entitled to enter upon lands.

Payment and tender of awards.

§ 12. Upon the payment or legal tender of the compensation awarded by the said commissioners or (in case of appeal) by the said court, 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 said 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 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 two newspapers published in said village of Owego, for four weeks successively immediately after such 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 or her guardian or person appointed as aforesaid by the said court; and if said guardian or person

appointed cannot be found, then by deposit in bank as aforesaid.

§ 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 thereof, to them and their successors forever.

Company may hold lands, waters, etc.

§ 14. 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 the 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 or 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, any time within 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 is 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; provided, however, that the amount of stock subscribed, and the amount of convertible bonds issued, shall not exceed in the aggregate the sum of one hundred and fifty thousand dollars.

Company may borrow money.

May issue bonds, and mortgage its property.

Bonds may be converted into water stock within five years.

Capital stock may be increased.

Aggregate amount to which capital may be increased.

§ 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 use, and restraining the waste thereof, and may thereby impose penalties and forfeitures for any violation of said rules and regulations, so that such penalty 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 said village; said rules and regulations shall be published for three weeks successively, in two newspapers published in said village, and a copy of such rules and reg-

Rules and regulations for use of water.

Penalties for violations thereof.

Rules and regulations to be published.

ulations, 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 papers, or by a foreman in their offices, shall be received as evidence in all courts and places.

Company
to furnish
water
to village,
etc.

§ 16. The said company shall furnish water to the village of Owego for the purpose of extinguishing fires, upon such terms as may be agreed upon between them and the board of trustees of said village. 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.

Injury to
water
works;
how pun-
ished.

§ 17. Any person who shall maliciously or willfully destroy or injure 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.

General
powers and
provisions.

§ 18. The corporation hereby created shall possess the powers and be subject to 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 fixed and limited by the directors of said company shall be paid in.

Compensa-
tion of la-
borers.

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

Limitation
of indebt-
edness.

§ 21. The indebtedness of said company shall not, at any time exceed an amount equal to seventy-five per cent of its capital stock; and if the indebtedness of said company shall, at any time, exceed such amount, the directors of said company assenting thereto shall be personally and individually liable for such excess, to the creditors of said company.

Liability of
directors.

§ 22. 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 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 such administrator, 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.

Liability of executors, guardians, etc.

§ 23. No stockholder shall be personally liable for the payment of any debt contracted by said company, except to laborers and servants, as provided in section nineteen, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of said debt shall be brought against said company within one year after the debt shall have become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in said company, for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in said company, nor shall any suit be brought against any stockholder until an execution against the company shall be returned unsatisfied in whole or in part.

Personal liability of stockholders.

§ 24. If the said directors shall, at any time after the organization of said company, determine to increase the capital stock, they shall submit the proposition for such increase to the stockholders, at a meeting called for that purpose, in the same manner as the annual meetings for the election of directors are required to be called, and a vote of the stockholders owning at least two-thirds in amount of the stock, in favor thereof, shall be necessary to

Increase of capital stock.

authorize such increase, and when so authorized, books of subscription for said additional stock shall be opened by the directors 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 is provided in section six of this act.

§ 25. The Legislature may at any time modify, alter, or repeal this act.

§ 26. This act shall take effect immediately.

Chap. 459.

AN ACT to provide for the adjustment of claims against towns in Cattaraugus county, and to provide means for the payment of the same.

Passed April 29, 1868 ; three-fifths being present.

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

SECTION 1. The board of supervisors of Cattaraugus county are hereby authorized and empowered to hear, decide and determine upon all claims of individuals against any town in said county, for reimbursement for bounty moneys paid by any such person by reason of such town having been reimbursed by the State, and if such board, on such hearing, shall decide that any such person has a legal or an equitable claim against any such town, they shall assess and collect upon the taxable property of such town such sum as they shall determine that such claimant is entitled to receive, and, when collected, the same shall be paid into the treasury of the county, and orders drawn on such treasurer for the payment of the same to the claimant; but no such claim shall be allowed against any town unless such town shall have received reimbursement from the State, and the person claiming shall have paid towards procuring the volunteer or substitute for which such town has been reimbursed.

§ 2. This act shall take effect immediately.