

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. II.



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1868.

payment, or, in case of refusal to receive the same by any person to whom any such amount may be so assessed upon tender of the same, to deposit the same in the Westchester County National Bank to the credit of such person, and proof of such payment, or tender and deposit as the case may be, being filed in the office of the clerk of Westchester county, said company shall be vested with the title to the lands and premises described in said petition, and authorized to enter upon and occupy the same for the purposes aforesaid.

In what case bridge shall be constructed with a draw.

§ 3. Said bridge, if constructed at any point west of the easterly side of the branch of said creek which passes through Annsville, shall be constructed with a draw fifteen feet in width.

§ 4. This act shall take effect immediately.

## Chap. 755.

### AN ACT to incorporate the Port Jervis Water Works Company.

Passed May 8, 1868 ; three-fifths being present.

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

Corporators.

SECTION 1. Ruel A. Chamberlain, Charles W. Douglass, William C. Rose, Orville I. Brown, Franklin R. Brodhead, Frederick Wehinger, John Green, Henry Dutcher, James Creegan, John I. Westbrook, George Brodhead, Jacob May, Augustus P. Thompson, Henry H. Farnum, Augustus B. Goodale, John Conkling, Charles St. John, Augustus H. Peck and Francis Marion and William Kuykendall, and all such persons as are or may hereafter be associated with them, are constituted a body corporate, by the name of the Port Jervis Water Works Company.

Corporate name.

Capital stock.

§ 2. The capital stock of said company shall be fixed by the directors thereof, but the same shall not be less than thirty thousand dollars, nor exceed the sum of one hundred thousand dollars, to be divided into shares of twenty-five dollars each.

Subscriber.

§ 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.

§ 4. The concerns of said corporation shall be managed by seven directors, who shall be stockholders and residents of the village of Port Jervis, 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 April, at such time and place in said village as the directors for the time being shall appoint. The first election shall be held on the first Wednesday of April, eighteen hundred and sixty-nine. Three weeks' notice of such election shall be given by a publication at least once in each week, in two newspapers published in the county. 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.

§ 5. The directors shall annually appoint a president, secretary, treasurer and such other officers as they may 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 not inconsistent with the laws of this State, as they may deem necessary and proper for the management of their business, and for accomplishing the purposes of the corporation.

§ 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 said payments, shall be published for four weeks previous to said time, at least once in each week, in two newspapers published in the county.

§ 7. The persons named in the first section shall be the first directors, and shall hold their offices until the said first of April, eighteen hundred and sixty-nine, and until others are chosen in their places; and in case of vacancy in the direction by reason of the death, resignation

tions to stock.

Board of directors.

Terms of office.

Annual elections.

First election.

Notices thereof.

Manner of voting.

Officers.

By-laws.

Payment of subscriptions.

Notice of calls therefor upon stockholders to be published.

First directors.

Vacancies; how filled.

or removal from the county of Orange, 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 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 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 any other day, in such manner as shall be prescribed by the directors, or provided for by the by-laws.

Inspectors  
of election.

Corpora-  
tion not to  
be dis-  
solved for  
failure to  
elect direc-  
tor.

Company  
may hold  
real estate.

May lay  
water  
pipes, etc.

May enter  
upon lands,  
streets, etc.

Lands,  
streets,  
etc., to be  
restored to  
good order.  
Conditions  
of laying  
pipes, etc.,  
through  
gardens,  
etc.

§ 8. For the purpose of supplying the said village of Port Jervis 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, ponds, fountains, or streams, and may 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, canals, railroads, or public squares, through which they may deem it proper to convey the water from said springs, fountains, 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, canals, railroads 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 village of Port Jervis, lay and construct said pipes, conduits, aqueducts, and other works through any

private garden, court, yard, or building lot, without the consent of such owner.

§ 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 each 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 Orange. The company, by any two 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.

Survey and map of lands to be made and filed.

§ 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 second 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 such 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 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, 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 two newspapers published in said county; and if any of said owners shall be married women, insane,

Company may acquire lands.

Commissioners to appraise damages;

Notice to resident owners of lands.

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

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 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 returning 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, or if not sworn and testifying, who the commissioners shall certify were 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.

Report of  
commis-  
sioners.

Compensa-  
tion.

Appeals.

Proceed-  
ings there-  
on.

§ 11. The said company, or any party to the proceedings of the commissioners, may appeal 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 said appeal, and may confirm the proceedings of the commissioners, or may increase or diminish the amount of compensation awarded by 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 appraisal; and the said court may make such orders in reference to the proceedings of the commissioners and of notices to be given to parties as may not be inconsistent with this act, and as the nature of the case and the interests of the parties may require.

When  
company  
entitled to  
enter upon  
lands and

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

waters for purposes of this act.

Payment and tender of awards.

§ 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, except the streets, highways, railroads, parks, or other public places through or upon which they may run their pipes, to them and their successors forever.

Company to take and hold lands, water, etc., for purposes of this act.

§ 14. Said company is hereby authorized and empowered to purchase and take conveyances, for and in the name of the company, of all lands or other estates or privileges necessary or convenient for accomplishing the purposes of this act; to dam and hold in sufficient quantities the water of any pond, lake, stream, or spring; to lay and construct all necessary pipes, aqueducts, or reservoirs, either within or without said village; to make use of the ground or soil under any railroad, canal, street, high or private way, for the purposes of laying said pipes or aqueducts in such manner as least to obstruct or impede travel thereon, causing all damage done thereto to be repaired, and all damage sustained by any person or corporation, in consequence of the interruption of travel,

Company authorized to purchase and take conveyances of lands, etc. May dam up waters of ponds and streams.

May use ground under streets, canal and railroads.

May establish reservoirs, hydrants, etc. and collect water rents.

Injury to water works; how punished.

Company shall supply water to village.

Terms thereof, how settled.

May make contracts and leases for sale for use of water.

General powers and provisions.

Individual liability of stockholders.

to be paid to such person or corporation; to make and establish public reservoirs and hydrants; to regulate the distribution and use of said water, and establish the prices to be paid therefor, and to collect all water rents.

§ 15. If any person shall willfully and maliciously corrupt the water in any reservoir, hydrant, aqueduct, pipe, or other portion of said water works, or destroy or injure any portion of such works, or any materials or property used or designed to be used in connection therewith, he shall forfeit and pay said company treble damages in any action of trespass brought by said company; and such person on conviction thereof, before any court having jurisdiction of the offense, shall be punished by fine not exceeding three hundred dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

§ 16. The said company shall furnish water to the village of Port Jervis, for the purpose of extinguishing fires, upon such terms as may be agreed upon between them and the board of trustees of said village; and if they cannot agree, application may be made by said company, or the board of trustees of said village, for the appointment of commissioners, as provided in section ten of this act, who shall prescribe the terms upon which said water shall be furnished, subject to an appeal by either party, as provided in section eleven of this act. 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 individuals, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

§ 17. 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.

§ 18. All the stockholders of the company hereby created, shall be severally 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, and the capital stock fixed and limited by the directors of said company

shall be paid in, one-half thereof in one year, and the other half within five years from the time of the commencement of the works of said company under this act, or the corporation hereby created shall be dissolved.

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

Certificate of amount of capital stock to be made and recorded.

§ 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.

Liability of stockholders for payment of debts due to laborers.

§ 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 such company.

Limitation of indebtedness.

Personal 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 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.

May represent shares of stock held in trust at elections.

§ 23. No stockholder shall be personally liable for

Stockhold-

ers not to be liable for debts when not paid in two years from contracting same.

the payment of any debt contracted by said company which is not to be paid in two years from the time the debt is contracted, nor unless a suit for the collection of said debt shall be brought against the said company within two years 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 such 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.

§ 24. This act shall take effect immediately.

## Chap. 756.

### AN ACT incorporating the Safe Deposit Company of Binghamton .

Passed May 8, 1868.

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

Corporators.

SECTION 1. Cyrus Strong, Charles McKinney, Jonas M. Walker, William P. Pope, Tracy R. Morgan, Job N. Congden and Sherman D. Phelps, their associates and successors, shall be and are hereby constituted a body corporate and politic by the name and style of "The Safe Deposit Company of Binghamton," and by that name to have perpetual succession, and capacity to sue and be sued in any court whatsoever.

Corporate name.

Board of directors.

§ 2. There shall be a board of directors of the said corporation consisting of seven members, and the persons expressly named in the first section of this act shall constitute the first board of the said corporation, and shall hold their offices for one year from the organization of the said corporation, and until others shall be elected in their places ; and the said corporation shall be deemed to be organized by the election, by the first board of directors thereof, of a president and vice-president from their own number, and a secretary.

First directors and terms of office.

Officers.