

L A W S
OF THE
STATE OF NEW YORK,

PASSED AT THE
NINETY-SECOND SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY FIFTH, AND ENDED MAY TENTH, 1869,
IN THE CITY OF ALBANY.

VOL. I.



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thousand eight hundred and sixty-nine, and thereafter the said term of office shall expire on the thirty-first day of July in every third year.

§ 2. This act shall take effect immediately.

Chap. 393.

AN ACT to authorize the common council of the city of Newburgh to lay out and open certain streets in said city through the lands of the Big Rock Cemetery Association.

Passed April 28, 1869; three-fifths being present.

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

SECTION 1. The special permission of the Legislature of this State is hereby granted to the common council of the city of Newburgh to lay out and open First street, Third street, Stone street and Fullerton avenue (formerly called I street) in said city, through lands of the Big Rock Cemetery Association, as said streets are laid down on the commissioners' map of streets and roads in said city, dated February eleventh, eighteen hundred and sixty-eight, and filed in the office of the Secretary of State, and also in the offices of the city clerk of the city of Newburgh and of the clerk of the county of Orange.

§ 2. This act shall take effect immediately.

Chap. 394.

AN ACT to incorporate the Warsaw Water Works Company.

Passed April 28, 1869; three-fifths being present.

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

SECTION 1. John A. McElwain, William Bristol, Ransom A. Crippen, Thomas S. Glover, Augustus Frank, William D. Miner and Timothy H. Buxton, and all such persons as are or may be hereafter associated with them,

Corporators.

Corporate name. are constituted a body corporate, by the name of the "Warsaw Water Works Company."

Capital stock. § 2. The capital stock of said company shall be fifteen thousand dollars, to be divided into shares of fifty dollars each, and said capital stock may hereafter be 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 upon the books of the corporation.

How increased.

To be personal property.

Notice of receiving subscriptions to stock.

§ 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 Warsaw, Wyoming county, on the first Monday of June next, or such other day as they may select, upon giving two weeks' notice 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.

Board of directors.

Business quorum.

Annual election.

First election.

Manner of voting.

Officers.

By-laws.

§ 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 office for one year, and until others are chosen in their places; the directors shall be chosen annually in the village of Warsaw, on the first Monday of June, at such time of day, and place, as the directors may appoint. The first election shall be held on the first Monday of June, eighteen hundred and sixty-nine; two 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 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 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, not contrary to the Constitution and by-laws* of the State.

§ 6. The directors may require payment of subscriptions to the stock at such times and in such portions 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 of subscriptions shall be published for two weeks previous to said time, at least once in each week, in two newspapers published in said village, or by notices in writing served personally upon each subscriber to such stock at least two weeks prior to said time of payment.

Directors may enforce collection of subscriptions.

Notice to make payments, how served.

§ 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 June, 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 or resignation of any director, or by 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 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 all newspapers published in said village.

First directors.

Term of office.

Vacancies, how filled.

Inspectors of election.

Removal of officers.

Corporation not to be dissolved for failure to hold election.

§ 8. For the purpose of supplying the village of Warsaw with pure and wholesome water, the said company may purchase, take and hold any real estate neces-

Company may hold real estate.

* So in the original.

May lay
water
pipes, &c.

May enter
streets,
lands,
streams,
&c.

To leave
lands,
streets,
&c., in
proper
condition.

Survey and
map to be
made and
filed.

Company
may
acquire
lands.

sary 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, 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 works 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, streams, wells and reservoirs, and lay out 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 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 owners thereof.

§ 9. Before entering 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 Wyoming. 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.

§ 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 time or session thereof, held in the eighth 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 places; 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 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.

Commissioners to appraise damages.

Notice to land owners, guardians and non-residents.

Report of commissioners.

Compensation.

§ 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

Appeals.

Proceedings in Supreme Court thereon.

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 eighth 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 the 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 proper to be made to any person or persons whose title, claim or interest is 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.

Proceedings in case of defective title.

Company may enter lands upon making payment or tender thereof.

§ 12. Upon the legal payment or tender of the compensation determined, as before provided, the said company shall be entitled to enter upon, for the purposes contemplated in 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 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 such 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

May deposit award in bank.

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 as aforesaid.

§ 13. The said company shall also take and hold, for the purposes contemplated in 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.

Company may hold lands, waters, &c.

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

Regulations for laying pipes, &c., in village.

§ 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 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 Warsaw. 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 affidavits 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.

Rules for use of water.

Publication thereof.

§ 16. The 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.

Company to furnish water for use at fires.

§ 17. Any person who shall willfully or maliciously 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 in-

Injury to water-works to be deemed a misdemeanor.

juriously affect the water of said company, shall be deemed guilty of a misdemeanor.

General powers of corporation.

§ 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 liabilities of stockholders.

§ 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 certificates thereof shall be made and recorded as prescribed in the following section.

Certificate of payment of stock to be recorded.

§ 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 Wyoming county.

Liability for debts to laborers.

§ 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.

Limitation of indebtedness.

§ 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.

Liability of executors, guardians, &c.

§ 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

May represent stock at meetings of company.

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.

Proviso as to subscriptions by executors, guardians, &c.

§ 24. The said company may hereafter increase the 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.

Increase of capital stock.

§ 25. The directors of the Wyoming County Mutual Insurance Company are hereby authorized, for and in behalf of said insurance company, to take and invest its surplus funds in the stock of the corporation hereby created, to the amount of six thousand dollars.

Insurance company may invest surplus in stock.

§ 26. The trustees of the village of Warsaw are hereby authorized, for and in behalf of the corporation of said village, to take and invest in the stock of the said Warsaw Water Works Company to an amount not exceeding three thousand dollars, provided they shall be so authorized by a vote of the taxable electors of said village, at any annual meeting for the election of officers for said village, or at a special meeting called as hereinafter provided. The trustees of said village are hereby authorized to call a special meeting of the electors of said village at any time, on the written request of twelve tax paying freeholders of said village, for the purpose of voting upon the question of taking and investing in the said stock in this section mentioned. A notice of the time and place of holding such meeting shall be published in all the weekly newspapers published in said village, for two weeks previous to said meeting,

Village may invest in stock upon favorable vote of inhabitants.

Special tax meeting may be called,

Notice thereof.

Tax, how
collected.

successively. The said trustees shall have power to raise, levy and collect, by a tax upon the taxable inhabitants and property of said village, for the purpose of taking and investing in said stock, such sum (not exceeding three thousand dollars) as shall be voted by said electors for that purpose at any such meeting.

§ 27. This act shall take effect immediately.

Chap. 395.

AN ACT to amend chapter four hundred and eighty-eight of the session laws of eighteen hundred and sixty-eight, entitled "An act to incorporate the Protective Hook and Ladder Company Number One, of Hicksville, Queens county," passed April thirtieth, eighteen hundred and sixty-eight.

Passed April 28, 1869; three-fifths being present.

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

SECTION 1. Chapter four hundred and eighty-eight of the session laws of eighteen hundred and sixty-eight, entitled "An act to incorporate the Protective Hook and Ladder Company Number One of Hicksville, Queens county," is hereby amended by adding thereto the following section :

Exemption
from jury
and milita-
ry duty.

§ 4. Each of the persons appointed firemen under the provisions of this act, and serving as such, shall during such service be exempted from service as a juror in any of the courts of this State, and for the same time be exempted from military duty in the State, except in cases of insurrection or invasion ; and a certificate signed by the foreman and secretary of said company, showing or reciting such service, shall be conclusive evidence in all cases of the service therein stated.

Certificate
of service.