

L A W S
OF THE
STATE OF NEW-YORK,

PASSED AT THE

SEVENTY-EIGHTH SESSION

OF THE

L E G I S L A T U R E ,

BEGUN JANUARY SECOND, AND ENDED APRIL FOURTEENTH, 1855, IN THE
CITY OF ALBANY.



ALBANY:
VAN BENTHUYSEN, PRINTER.

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1855.

may be made parties to the action and the complaint may be amended for that purpose.

§ 4. The court in its discretion may direct any person not already made a party to such action, who shall seem to be presumptively entitled as in the first section of this act specified, to be so made a party thereto. And whenever, in any action to which all persons having vested estates at law or in equity shall have been made parties, or shall have been so proceeded against as unknown owners, a sale shall be had as aforesaid by order of the court; such sale shall vest in the purchaser a fee simple absolute at law and in equity, in the property so sold.

Presumptive owners may be made parties.

§ 5. All sales to be directed as aforesaid shall be made by or under the direction of a referee, to be for that purpose appointed by the court, who shall have power to perfect every such sale by executing under his hand and seal a deed to the purchaser.

Sales how made.

§ 6. The third and fourth sections of the act entitled "An act to authorise the sale of real estate in certain cases to pay assessments and for other purposes," passed May twenty-sixth, eighteen hundred and forty-one, and the third section of the act entitled "An act in relation to the sale of real estate to pay assessments," passed April eleventh, eighteen hundred and forty-two, shall apply to actions under this act.

Chap. 328.

AN ACT to incorporate the "Yonkers Water Company."

Passed April 12, 1855, three-fifths being present.

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

§ 1. William H. Arthur, George H. Bell, Joseph Russell, Joseph H. Jennings, Jonathan Ball, Thomas C. Cornell and Frederick A. Coe, and all such persons as shall or may hereafter be associated with them, are constituted a body corporate, by the name of the "Yonkers Water Company."

Title.

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

Capital stock.

lars each; and the said company are hereby empowered to increase their capital stock at any time to one hundred and fifty thousand dollars.

Subscrip-
tions.

§ 3. A majority of the persons named in the first section of this act shall meet at some convenient place in the town of Yonkers, county of Westchester, upon giving two weeks' notice in one newspaper published in the county of Westchester, 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. At the time of subscribing each subscriber shall pay to said persons the sum of five dollars on each share subscribed for by him. And in case more than the number of shares authorised by this act shall be subscribed, they shall apportion the same among the subscribers as they shall think best for the interests of the company. The stock shall be considered personal property, and shall be assignable and transferable on the books of the company, by surrender of certificate.

Directors.

§ 4. The concerns of said corporation shall be managed by seven 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 in December, in such place in said town as the directors for the time being shall appoint. The first election shall be held on the first Monday of December, in the year of our Lord eighteen hundred and fifty-five. Two weeks' notice of such election shall be given, by a publication, at least once a week, in a newspaper published in said county. Each stockholder shall be entitled to 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.

Officers.

§ 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 shall 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.

Payment of
subscriptions.

§ 6. The directors may require payment of subscriptions to the capital 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 re-

cover all such subscriptions. Notice of the time and place of said payments shall be published for two weeks previous to said time, at least once a week in a newspaper published in said county, as above provided.

§ 7. The persons named in the first section shall be the first directors, and shall hold their offices until the said first Monday of December, eighteen hundred and fifty-five, 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 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 of 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.

Vacancies.

§ 8. For the purpose of supplying the said village of Yonkers with pure and wholesome water, and for the transaction of their business, said company may purchase, take, and hold any real estate that may be necessary for said purposes, 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 of water in the town of Yonkers, and divert and convey the same to said village; and may dig wells, lay and construct any pipes, conduits, aqueducts, reservoirs, or other works or machinery necessary or proper, upon any lands so entered upon, purchased, taken, or held by them. Said corporation may, as aforesaid, by their directors, agents, servants, or other persons employed, 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, and reservoirs, and lay and construct any pipes,

Real estate.

conduits, aqueducts, or other works for that purpose, leaving the said lands, streets, highways, roads, lanes, or public squares, in the same condition, as nearly as may be, as they were before said entry. But said company shall not lay or construct their works through any private garden, court-yard, or building lot, without consent of the owner, or the streets or public squares of any village, without the consent of the trustees thereof.

Survey
and map of
lands.

§ 9. Before entering, taking, or using any lands, springs, or water, for the purposes of this act, the directors of the 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 the Westchester, and also a duplicate thereof in the office of town clerk of Yonkers aforesaid. Notice of the time and place of filing the same, shall be given by said company to each person whose land or water it is proposed to take; such notice to be served in the manner provided in the next section of this act. 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.

Proceed-
ings to ac-
quire title.

§ 10. In case the said company cannot agree with the said owners and occupants of any lands or waters intended to be taken and used as aforesaid, for the purchase thereof, the directors, upon giving such persons notice as hereinafter is required to be given by the commissioners, may apply to the supreme court at any term or session thereof, held in the second judicial district, for the appointment of three disinterested commissioners, who shall be freeholders of said county, by whom the compensation to be paid for the damages suffered, or likely to be suffered, by any person or persons by reason of the taking of said lands and water, and the 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 said commissioners, the court may on the like notice appoint others to fill 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 such of the

owners of the 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 parent or 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 by publishing the same for six weeks successively in one newspaper in the county of Westchester. And if any of said owners shall be married women, infants, insane or idiots, the said court shall appoint some suitable person to attend on their behalf before the said commissioners, and to 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 one of them, may administer the usual oaths to such witnesses, and 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 said court to be filed of record, and give written notice thereof to all the parties interested. 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, whom the commissioners shall certify were properly and necessarily subpoenaed, the sum of one dollar per day, and four cents per mile travel in going out and returning, if more than three miles from the place of meeting.

§ 11. The said company, or any party to the proceedings of the commissioners, may appeal to the supreme court of the second district, from any award or determination of said commissioners, providing the party appealing shall, within ten days after notice in writing of the filing of said record, as directed in the last section, give notice of the appeal to the other party or parties interested in the same; and the said court shall examine the report of the commissioners. The said court shall, upon the report of the commissioners, and upon the additional testimony to be taken by them, if they deem the same to be necessary, proceed to hear said appeals, and may confirm the pro-

ceedings of the commissioners, and may increase or diminish the amount of compensation awarded by said 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 make such orders in reference to the proceedings of the said commissioners, and notices to be given to parties, as may not be inconsistent with the act, and as the nature of the case and the interest of the parties may require.

Payment of
award
gives title
to lands.

§ 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 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 the sum awarded to him or her, 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 designated by said court ; and a certificate of such deposit, signed by the cashier of said bank, shall be published by said company in a newspaper published in the county of Westchester, 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 any legal disability as aforesaid, payment may be made to the guardian or person appointed as aforesaid by the court ; and if said guardian or person appointed cannot be found, then by deposit in bank as aforesaid.

Lands how
held.

§ 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 acquire by purchase or otherwise, or in any way legally enter upon and take, by virtue hereof, to them and their successors forever.

Regula-
tions in lay-
ing pipes.

§ 14. In laying pipes, conduits, or aqueducts, or constructing works in the public lands, streets, highways, roads, lanes or public squares of the town of Yonkers and its vicinity, the company shall conform to such regulations as the board of trustees of said town or village, or the commissioners of highways, shall prescribe.

§ 15. The said directors of said company may establish prices for the use of said water ; and also 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 forfeiture 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 town. Said rules and regulations shall be published for two successive weeks in a newspaper published in the county of Westchester ; and a copy of said rules and regulations, certified by the president or secretary of said company, with affidavits of the publication of the same, made by any one of the publishers of said papers, or by a foreman in their offices, shall be received as evidence in all courts and places.

Rules for
use of
water.

§ 16. The said company shall furnish water to the village of Yonkers, for the purpose of extinguishing fires, upon such terms as may be agreed upon between them and the corporation of said town. The said company may make any agreements, contracts, grants, and leases for the sale, use and distribution of water as 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.

Contracts
for sale of
water.

§ 17. Any person who shall maliciously or wilfully destroy or injure any of the works or property of said company, or who shall maliciously commit any act which shall injuriously affect, or tend thus to affect the water of said company, shall be guilty of a misdemeanor, cognizable before any court or magistrate in said county.

Penalty for
injuring
works.

§ 18. 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 ; and the capital stock so fixed shall all be paid in, one-half thereof in one-year, and the other half within two years from the time of the commencement of the works of the said company under this act, or the corporation hereby created shall be dissolved.

Liability of
stock-
holders.

§ 19. The president and a majority of the directors, within thirty days after the payment of the last instalment of

Certificate
of capital
paid in.

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 the said thirty days be recorded in the clerk's office of the county of Westchester.

Debts to laborers.

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

Indebtedness, limitation of.

§ 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 trustees.

§ 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 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 executors, administrators, guardians or trustees, 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 or she had been living and competent to act and hold the stock in his or her own name. Every such executor, administrator, guardian or trustee shall represent the shares owned by him or her as such executor, administrator, guardian or trustee, at all meetings of the company, and may vote as a stockholder; and every person pledging his or her stock as aforesaid may in like manner represent the same, and vote accordingly.

Limitation of liability.

§ 23. No stockholder shall be personally liable for the payment of any debt contracted by the said company, unless a suit for the collection of said debt be first brought against said company, within six years after the debt shall have become due; and no suit shall be brought against any stockholder for any debt so contracted, until an execution against the company shall be returned unsatisfied in whole or in part.

Increase of stock.

§ 24. If the said directors shall, at any time after the organization of said company, determine to increase the

capital stock as herein provided, the books of subscription for 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 is provided in section six of this act.

§ 25. 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.

Chap. 329.

AN ACT to incorporate the *Mercantile Savings Bank of the city of Albany.*

Passed April 12, 1855.

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

§ 1. William G. Boardman, Charles B. Redfield, John Tweddle, Samuel H. Ransom, Andrew D. Lansing, Richard Van Rensselaer, Henry P. Pulling, Stephen Groesbeeck, Maurice E. Viele, James C. Kennedy, Gilbert L. Wilson, Edward E. Kendrick, Joseph A. Bullock, William B. Treadwell, Christopher Y. Lansing, John Sill, Stephen Paddock, and their successors, shall be, and they are hereby constituted a body corporate and politic, by the name of the "Mercantile Savings Bank of the city of Albany," and by that name shall have perpetual succession, and may sue and be sued in any court whatsoever, and to be located in the city of Albany. Title.

§ 2. The real estate which it shall be lawful for the said corporation to purchase, hold and convey, shall be: Real estate.

1. Such as may be requisite for its immediate accommodation for the convenient transaction of its business.

2. Such as shall have been mortgaged to it in good faith for moneys loaned in pursuance of the provisions of this act.

3. Such as shall have been purchased at sales upon judgment or decrees obtained or rendered for moneys so loaned; and the said corporation shall not purchase, hold or convey real estate, in any other case, or for any other