

OUR WATER RIGHTS

Continued from 1st page.

corresponding entries in the margin of such book on such issuance; and he shall affix said corporate seal to all papers requiring a seal.

3d. He shall keep a proper transfer book and a stock ledger in debit and credit form, showing the number of shares issued and transferred by any stockholder and the dates of such issuance and transfer.

4th. He shall keep proper account books, countersign all checks drawn upon the treasurer and discharge such other duties as pertain to his office and as are prescribed by the board of directors.

5th. The secretary shall serve all notices required either by law or the by-laws of the company, and in case of his absence, inability, refusal, or neglect so to do, then such notices may be served by any person thereunto directed by the president or vice-president of the company.

ARTICLE IX. TREASURER.

The treasurer shall receive and keep all the funds of the corporation and pay them out only on the check of the president, countersigned by the secretary.

ARTICLE X. SUPERINTENDENT.

The board of directors shall elect a superintendent who shall hold his office at the pleasure of the board, who shall at all times be subject to removal by the board, who shall perform such duties as shall from time to time be prescribed by the board, and who shall have immediate charge of the entire canal system. He shall appoint such janitors and assistants as may be necessary in distributing the water and employ such help as may be necessary to keep the canal system in good repair. All appointments shall be made, all help shall be employed and all work shall be done under such rules and regulations as shall be adopted from time to time by the board of directors. The methods for distributing the water and collecting rates for the same shall also be fixed by the board of directors.

ARTICLE XI. BOOKS AND PAPERS.

The books and such papers as may be placed on file by vote of the stockholders or directors shall, at all times in business hours, be subject to the inspection of the board of directors and of any stockholder.

ARTICLE XII. CERTIFICATES OF STOCK.

Certificates of stock shall be of such form and device as the board of directors may direct, and each certificate shall be signed by the president and countersigned by the secretary, and express on its face its number, date of issuance, the number of shares for which, and the person to whom it is issued.

The certificate book shall contain a margin, on which shall be entered the number, date, number of shares and name of the person expressed in the corresponding certificate.

ARTICLE XIII. TRANSFER OF STOCK.

Shares of the corporation may be transferred at any time by the holders thereof, or by attorney legally constituted, or by their legal representatives, by indorsement on the certificate of stock. But no transfer shall be valid until the surrender of the certificate and the acknowledgement of such transfer on the books of the company.

No surrendered certificate shall be canceled by the secretary before a new one is issued in lieu thereof, and the secretary shall preserve the certificate so canceled as a voucher. If, however, a certificate shall be lost or destroyed, the board of directors may order a new certificate issued upon such guarantees by the parties claiming the same as they may deem satisfactory.

ARTICLE XIV. MEETING.

The annual meeting of the stockholders may be held in Imperial, California, on the second Tuesday in January in each year and shall be called by a notice printed in one or more newspapers, published in the county of Los Angeles, as the Directors may elect, for at least ten days last preceding the day of meeting, or by a notice in writing by the president, delivered to each stockholder personally.

No meeting of stockholders competent to transact business as a majority of stock is present shall adjourn from day to day, or from one day to another, until the next annual meeting.

At each annual meeting, Directors for the next year, and until elected, shall be elected. If, however, any, or other, shall be elected, the meeting shall not be held on the above named day.

ed for their consideration, those present may adjourn from day to day, until the same shall be accomplished.

ARTICLE XV. VOTING.

At all corporate meetings, each stockholder, either in person or by proxy, shall be entitled to as many votes as he owns shares of stock. Such proxy shall be in writing, and filed with the secretary.

ARTICLE XVI. AMENDMENTS.

The By-Laws may be altered or amended at any meeting of the stockholders by a majority of the stock represented at such meeting, or by a two-thirds vote of the whole number of the Board of Directors, to be ratified by the first meeting of the stockholders thereafter.

ARTICLE XVII. SEAL.

The company shall have a common seal, consisting of a circle having on its circumference the words Imperial Water Company, No. 1, Incorporated March 29, 1900.

ARTICLE NO. XVIII.

Article XVIII was added to the by-laws by vote of stockholders at regular annual meeting January 12th, 1904, minute book page 4.

Be it resolved that articles two (2) and eight (8) and sixteen (16) and that certain clause of article five (5) which reads as follows, to-wit: "That the price of fifty cents per acre foot herein agreed upon as the price which shall be charged annually for the water to be received by second party, shall in no event and under no condition be increased" of the contract of July 24th, 1901, between la Sociedad de Yrrigacion y Terrenos de la Baja California, as party of the first part and the Imperial Water company No. 1 party of the second part, and the California Development company party of the third part, the original copy of which is on file in this office, a copy of which is hereto attached, be and the same are hereby made a part of the by-laws of this corporation and shall hereafter be subject to change only upon such terms as said by-laws can be legally amended.

ARTICLE NO. XIX.

Article No. XIX was added to the by-laws by vote of stockholders at regular annual meeting Jan. 9, 1906, minute book page 116.

1. Shares of stock issued by this corporation will be located upon lands at the rate of one share per acre for each acre of land owned by the stockholder, where the lands can be served by the ditches of the company.

2. Water shall be delivered at the highest corner of each sub-division of 160 acres to holders of such shares so particularly located in blocks of not less than 40 shares, for use upon the lands, and only upon the lands upon which said shares of stock are located, and in the event any stockholder shall divert any part of the waters so delivered to the said land upon any other land for use thereon, or shall attempt to irrigate more acres of land in a tract upon which he has said stock located than he has shares of stock located thereon, then and in that event the said stockholder or his successor in interest in said stock or land shall not receive in the future any water upon said stock or for use upon the lands upon which the said stock is located, until he shall have paid to the company not only the regular price of the water ordered by him for that particular run, but also in addition a sum three times that amount; and provided, also, that the zanjero or superintendent or anyone authorized by them or either of them, shall at all times, when any person is so misapplying such water, have the right to shut off the same, and the said stockholder shall forfeit his right to the balance of that particular run, and shall be liable for the payment of the whole of said run, and neither he nor his successors in interest in the said stock or said land shall receive any water upon the said stock for the use upon the said land until he shall have paid to the company, in addition to the regular price of the water ordered for that particular run, a sum three times that amount; provided that this by-law shall not interfere with any contract heretofore entered into.

ARTICLE XX.

Article XX was added to the By-Laws by a vote of the stockholders at regular annual meeting Jan. 9, 1906.

No stockholder or his tenant, or the employe of any stockholder or tenant shall allow any cattle, horses, hogs or animals to pollute the waters of any ditch belonging to the company by allowing such cattle, horses, hogs, or other animals to pollute the waters of ditch belonging to the Company by allowing such cattle, horses, hogs, or animals to graze in or along, or and in any ditch, or allow the carcass of any dead animal to be thrown into the ditch of the Company, and if any stockholder or his tenant or the employe

of any such stockholder or tenant shall allow any cattle, horses, hogs, or other animals to pollute the waters of any ditch belonging to the Company, as above provided, said stockholder so violating the provisions hereof, or whose employe, tenants or tenant's employe shall so violate the provisions hereof, shall be subjected to a penalty of \$25.00 for the first offense and \$50.00 for the second offense and \$100.00 for any later violation of this By-Law, which said sums shall become immediately due and payable to the Company immediately upon such violation, and neither stockholder or tenant shall, until such penalty is paid, be entitled to receive any water from the Company, said sum when paid, to be paid to the Superintendent, and to be placed by him in the general fund of the Company.

I do hereby certify that the above is a full, true and complete copy of the by-laws of Imperial Water Co. No. 1. and the amendments thereto.

E. R. BAKER, Secretary.

Imperial Cal. May 16th 1906.

It can be seen by an examination of these by-laws that they contain no provisions which carry into effect the proviso of Sec. 324 of the Civil Code. All reference to stock certificates and their transfer read the same as they would were Imperial Water company No. 1 a common carrier of water and operating under the general laws of the State. The only clause that has been adopted by the stockholders as a by-law which even remotely resembles a compliance with said proviso is the by-law adopted January 9th last concerning the location of a less number of shares of stock than there are acres of land in the holding of the stockholder. This by-law was adopted to prevent the landowner from buying a few shares of stock at a delinquent sale or otherwise and having it located on a tract containing more acres of land that he owned shares of stock in the water company and then demanding water for his entire tract. It is also aimed at the possibility of anyone locating stock on one tract of land and using the water on other lands that are not supplied with stock. The adoption of this by-law under the circumstances is a prima facie proof that Imperial Water company No. 1 was operating, had operated and at the present time is operating as a mutual water company insofar as the supplying of water to none but stockholders and to no land not supplied with stock is concerned. It is also a fact that they supply no water to land that is not described in an outstanding stock certificate. While this is true it is also true that they deliver water to lands belonging to one party where the stock on that land belongs to another party, but in such cases they require an order from the stockholder for the delivery of the water and collect in advance for the water from the landowner. In view of all these facts the next question is, how does it happen that this corporation is carrying on the business of a mutual water company, restricting its operations to its stockholders only and requiring all lands supplied with water to be described in outstanding stock certificates while meantime the by-laws of the company have been silent on all these subjects. We have looked into the matter to some extent and believe we have found the answer to this question. It is found in the articles of incorporation of the company and also in the contracts for a water supply to which it is a party.

The Articles of Incorporation of Imperial Water company No. 1 read as follows:

Know all men by these presents, that we, the undersigned, a majority of whom are citizens and residents of the State of California, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of California. And we hereby certify:

FIRST—That the name of said corporation shall be the "Imperial Water Company No. 1."

SECOND—That the purposes for which it is formed are: To secure a supply of water for irrigation, domestic and other purposes from the Sociedad de Yrrigacion y Terrenos de la Baja California (Sociedad Anonima) and to distribute the same at cost among its

stockholders only for use upon lands owned by them within the boundaries hereinafter described; to construct conduits for distributing the same, utilizing whatever power there may be in connection with such water system; to be used to run mills for rolling or grinding grain or for other purposes; to buy, hold, hypothecate and sell such real estate or other property as may be necessary or useful for conducting the business of the corporation; to borrow money and give such securities for the payment of the same as may be necessary, and to do any and all other acts that may be necessary in connection with the successful management of the principal objects for which the corporation is formed. That the lands upon which the waters to be acquired by the corporation may be used are situated within the following exterior boundaries, viz: That portion of San Diego county, State of California, bounded by Salton River (or what is sometimes called Carter River) on the east, and the New River on the west.

THIRD—That the place where the principal business of said corporation is to be transacted is Los Angeles, State of California.

FOURTH—That the term for which said Corporation is to exist is fifty years, from and after the date of its incorporation.

FIFTH—That the number of Directors or Trustees of said Corporation shall be five, and that the names and residences of the Directors or Trustees, who are appointed for the first year, and to serve until the election and qualification of such officers, are as follows, to-wit:

Names. Whose residence is at
N. W. STOWELL, Los Angeles, Calif.
A. M. CHAFFEY, Los Angeles, Calif.
D. K. EDWARDS, Los Angeles, Calif.
J. W. SWANWICK, Los Angeles, Calif.
A. J. CONDEE, Moreno, Calif.

SIXTH—That the amount of the capital stock of said Corporation is one million dollars, and the number of shares into which it is divided is one hundred thousand of the par value of ten dollars, each.

SEVENTH—That the amount of said capital stock which has been actually subscribed is fifty dollars, and the following are the names of the persons by whom the same has been subscribed, to-wit:

Names of Subscribers. No. of Shares. Amount.
N. W. Stowell.....One.....\$10 00
A. M. Chaffey.....One..... 10 00
D. K. Edwards.....One..... 10 00
J. W. Swandick.....One..... 10 00
A. J. Condee.....One..... 10 00

In witness whereof, we have hereunto set our hands and seals this 23d day of March, A. D., 1900.

Signed and sealed in the presence of
N. W. STOWELL, (Seal)
A. M. CHAFFEY, (Seal)
D. K. EDWARDS, (Seal)
J. W. SWANWICK, (Seal)
A. J. CONDEE, (Seal)

From the above it will be seen that Imperial Water company No. 1 was incorporated for the purpose of securing "a supply of water for irrigation, domestic and other purposes from the Sociedad de Yrrigacion y Terrenos de la Baja California (Sociedad Anonima) and to distribute the same at cost among its stockholders only for use upon lands owned by them within the boundaries described." This declaration in the charter of the company appears to be clear enough that the company is a mutual water company. It is provided that the water which the company is to "secure" from the Sociedad de Yrrigacion, etc., is to be "distributed at cost to their stockholders only for use upon lands owned by them." These provisions are certainly ample as the basis for a mutual water company and are much fuller than the articles of incorporation filed by such companies generally are.

As to the particular reasons why this water company was incorporated as a mutual water company and the by-laws not made to carry out the proviso of Sec. 324 of the Civil Code we would add that it appears to have been the intention of the parties who planned this water company to have it a mutual water company but to have the stock not appurtenant to the land. The method by which this was sought to be carried out is disclosed in the contract for a supply of water entered into between Sociedad de Yrrigacion y Ter-

renos de la Baja California (Sociedad Anonima) and Imperial Water company No. 1 from which we quote the following:

This agreement made and entered into this 6th day of April, 1900, by and between Sociedad de Yrrigacion y Terrenos de la Baja California (Sociedad Anonima) a corporation duly formed and existing under and by virtue of the laws of the Republic of Mexico, party of the first part, and Imperial Water Company No. One, a corporation formed and existing under the laws of the State of California, United States of America, party of the second part,

Witnesseth: That, Whereas, the first party is about to construct a canal for the purpose of diverting certain waters of the Colorado River to be used for irrigation and other useful purposes; and

Whereas, first party IS DESIROUS OF SELLING THE RIGHT TO USE SUCH WATER; and

Whereas, second party is a corporation formed for the purpose of supplying water at cost to its stockholders only upon certain lands situated in the County of San Diego, State of California, and situated within certain exterior boundary lines mentioned and described in the articles of incorporation of second party; and

Whereas, second party is desirous of obtaining a supply of water for the use of its stockholders.

Now, therefore, this agreement further witnesseth:

1. That for and in consideration of the agreements on the part of second party hereinafter contained, first party hereby agrees upon demand of second party to annually deliver to second party four (4) acre-feet of water for each share of stock of second party which may have been issued and located upon lands situated within the boundaries of the lands to be supplied with water by second party. Provided, however, that the aggregate amount of water which first party is hereby obligated to deliver to second party shall not exceed four hundred thousand (400,000) acre-feet per annum.

The basis on which the men who planned Imperial Water company No. 1 apparently acted was first, that the water belonged to the Sociedad de Yrrigacion y Terrenos de la Baja California. Second that Imperial Water Co. No. 1 was organized for the purpose of securing a supply of water from said Sociedad de Yrrigacion, etc., for the use of its stockholders only, and third that the contract with said Sociedad de Yrrigacion limited the right of said Imperial Water Co. No. 1 to deliver the water supplied to it by said Sociedad to holders of its capital stock only and only upon lands on which this stock is located. From these premises they have argued that the water stock was merely stock in a corporation having a contract with another corporation for a limited amount of water to be used for a certain purpose to-wit, not to exceed 400,000 acre feet of water per annum to be distributed to its stockholders only. This being the case it did not seem necessary to take any notice of Section 324 of the Civil Code in order to make Imperial Water Co. No. 1 a mutual water company. The by-laws adopted therefore contained nothing in regard to the stock being issued and located on certain tracts of land owned by the stockholder and entitling the holder to water with which to irrigate said land. All that could be construed was that the stockholder was a part owner in the corporation and as such entitled to participate in its business and share any profits or advantages that might arise from its operations.

In our next issue we expect to discuss the nature of irrigation stock and shall point out wherein the ownership of stock in Imperial Water Co. No. 1 gives its owner a water right according to the laws of California.

A Mountain of Gold

could not bring as much happiness to Mrs. Lucia Wilkie, of Caroline, Wis., as did one 25c box of Bucklen's Arnica Salve, when it completely cured a running sore on her leg, which had tortured her 23 long years. Greatest antiseptic healer of Piles, Wounds, and Sores. 25c at all druggists.

400 Acre assignment fine land, easily leveled and put in crop, Put cheap water stock on this and you have a bargain. Bert R. Chaplin, Imperial, Cal.