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ACTS

OF

THE SIXTY-THIRD

GENERAL ASSEMBLY

OF

THE STATE OF NEW JERSEY.

AT A SESSION BEGUN AT TRENTON, ON THE TWENTY-THIRD DAY OF OCTOBER,
EIGHTEEN HUNDRED AND THIRTY-EIGHT.

BEING THE FIRST SITTING.



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1839.

Handwritten initials

AN ACT to incorporate the Jersey City and Harsimus Aqueduct Company.

Preamble, WHEREAS, a petition by David Henderson, Dudley S. Gregory, John M. Cornelison, John Griffith, Aaron Ogden and Lucius F. Douglass, praying that they and others with whom they may associate may be made a corporation, for the purpose of carrying into effect the objects in said petition set forth; AND WHEREAS the prayer of said petition is just and reasonable THEREFORE,

Commissioners to receive subscriptions for stock. Apportionment of stock to be made. Sec. 1. BE IT ENACTED, *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That David Henderson, John M. Cornelison, Jonathan D. Miller, John Griffith, Aaron Ogden, Lucius F. Douglass and Dudley S. Gregory be, and they are hereby appointed commissioners to receive subscriptions to the capital stock of "the Jersey City and Harsimus Aqueduct Company," and are hereby authorized to open books for that purpose at such times and places as they, or a majority of them may direct, giving at least twenty days notice thereof in a newspaper printed in the county of Bergen, which books shall be kept open for three days at least, during the usual business hours, and in case a greater amount than the capital stock shall be subscribed, the said commissioners shall make a just and equitable apportionment thereof among the several subscribers, in proportion to their several subscriptions, but no apportionment shall be made of any subscription for not more than five shares.

Amount of capital stock. Style of incorporation. Powers. Sec. 2. *And be it enacted,* That the capital stock of said company shall be forty thousand dollars, to be divided into shares of fifty dollars each; and that as soon as the whole number of shares shall be subscribed, and five dollars a share paid in, the persons holding the same shall be, and they hereby are created a body politic and corporate, in fact and in law, by the name of "the Jersey City and Harsimus Aqueduct Company," with the right of supplying water, as herein contemplated; and by that name they and their successors shall and may have perpetual succession, be capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever; and may have a common seal, and may break, change, and alter the same at their pleasure; and may purchase and hold, for the use of said corporation, any estate, real or personal, which may be necessary and proper to carry into execution the objects of this incorporation.

Sec. 3. *And be it enacted,* That so soon as the capital

stock of the said company shall have been subscribed, the said commissioners shall call a meeting of the stockholders, giving at least twenty days notice of the time and place of meeting, as herein before directed, at which meeting the stockholders shall proceed to elect seven directors to manage the affairs of the said company for one year, of which election any three persons appointed by said commissioners shall be judges; and that at the expiration of said term, and annually thereafter, upon like notice, to be given by the directors for the time being, the said stockholders shall elect the same number of directors, each share of stock to entitle the holder thereof to one vote, either in person or by proxy; and such directors, when chosen, may make and enforce such by-laws as they may think expedient for regulating the transfers of stock, and for the general management and regulation of the officers of the company; *provided*, the same be not contrary to the constitution or laws of this state or of the United States.

Time and mode of electing directors.

Proviso.

Sec. 4. *And be it enacted*, That it shall and may be lawful for the said company to use the waters of any springs near their said contemplated works, by conducting the same, as herein after provided, into their reservoir or reservoirs, and for this purpose to enter upon any lands in the townships of Jersey City and Bergen, in Bergen county, and search or bore for water, or examine the quality thereof, if thought necessary; and that any damages sustained by the owner or owners of the lands so entered upon shall be paid by said company as herein after provided; and that it may be also lawful for said company, by their workmen and agents, to enter upon and take lands whereon to erect one or more reservoirs, and with their carts and wagons, beasts of burthen and all necessary tools and implements for taking and conveying away earth, stone and gravel for the erection and preservation of such reservoir or reservoirs; and also, that the said incorporated company may enter upon any premises, and dig thereon such drains or ditches as may from time to time become necessary, and for making such excavation or excavations as are necessary for laying or repairing aqueduct pipes laid therein, and after such excavations to cover the same with the earth which they have so thrown out with all reasonable despatch; and also, that it be lawful for said company, by their agents or workmen, to lay and extend such aqueduct or aqueducts to such places in the island of Harsimus and Jersey City as they shall deem proper, and through any lands that may be by them thought necessary, first giving notice of their intentions to the owner or owners, or the party in possession, of such their intentions in writing, and making satisfaction for any damages that may be sustained thereby, according to any reasonable agreement between the

Privileges of company in using springs of water and in erecting their water works.

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Proceedings when owners of lands and company cannot agree upon amount of damages.

parties; and in case the said parties cannot agree, it shall be the duty of either of the justices of the supreme court, or one of the judges of the court of common pleas, in said county, upon a notice to be given him by the said corporation, or by the owner or owners of such land or real estate, to appoint three disinterested commissioners from the county of Bergen, to determine the compensation and damages which the owner or owners of the said real estate or land have sustained, by reason of the occupancy thereof by the said company; and it shall be the duty of the said commissioners (after having taken an oath or affirmation faithfully and impartially to discharge the trust herein reposed in them) to deliver to the said company a written statement, signed by them, or a majority of them, of the awards they shall make, containing a description of the lands or real estate appraised, to be recorded by said company in the office of the clerk of the county of Bergen, and upon payment or tender of such compensation as aforesaid to the said owner or owners, then the said company shall be deemed seized and possessed, in fee simple, of all such land or real estate; and in case any owner or owners of such land or real estate, so appraised, shall be feme covert, under age, non compos mentis, or out of the state, then and in such case, the said corporation shall pay the amount which has been awarded as due to the last mentioned owners, respectively, into the court of chancery, to the clerk thereof, subject to the order of said court, for the use of the said owner or owners; all which proceedings shall be had at the proper costs and charges of said corporation, to be determined by the said justice of the supreme court, or judge of the court of common pleas; *provided always*, that nothing herein contained shall be so construed as to prevent or in any wise to interfere with the said company, by their servants and agents, from entering upon any lands within the aforesaid limits for the purpose of searching for or conducting water, and making all necessary examinations, by digging, boring, or otherwise, in relation thereto; and that the injury or damage sustained by the said owner or owners, by means of such examination, shall be paid for by said company, in manner heretofore provided; *provided also*, that nothing in this act contained shall be so construed as to authorize said company to appropriate to its use any spring or run of water without the consent of the owner or owners of the land where such spring rises or through which the said stream of water may run, or to compel such owner or owners to submit to any arbitration respecting the same.

Proviso.

Proviso.

Company may lay their water pipes under public streets.

Sec. 5. *And be it enacted*, That the said company shall be and they hereby are fully empowered to lay their water-pipes beneath such public streets, avenues, or alleys as may be necessary for carrying out the purposes of this act, free

of all charge to be made by any person or persons whatever for said privilege, doing no damage to public or private property thereby; *provided*, that said pipes shall be laid at least three feet below the surface of the said streets, avenues, or alleys, and shall not in any wise obstruct or interfere with the public travel along the same. Proviso.

Sec. 6. *And be it enacted*, That if any person or persons shall wilfully do, or cause to be done, any act whatsoever, whereby the said works, or any pipes, conduit, canal, water-course, plug, cock, reservoir, or any matter or thing appertaining to the same shall be stopped, obstructed, or impaired, weakened or injured, the person or persons so offending shall forfeit and pay to the said company triple the amount of the damages sustained by means of such offence or injury, to be recovered by such company, with costs of suit, in any court having cognizance of the same. Penalty for injuring the works of company.

Sec. 7. *And be it enacted*, That it shall be also lawful for the said company, in their corporate name and capacity, to sue for and recover the amount of all contracts made with the said company for the use of the hydrant waters aforesaid. Company to recover on contracts for the use of water.

Sec. 8. *And be it enacted*, That unless the works necessary for carrying into effect the objects of this incorporation shall be commenced in good faith within the term of two years from the date of this law, the same shall be null and void. Limitation of act.

Sec. 9. *And be it enacted*, That the legislature may at any time alter, amend, modify, or repeal this act, whenever in their opinion the public good requires it. Act may be altered or repealed.

Passed March 1, 1839.